

**COMBATING THE HURDLES OF PROSECUTING THE OFFENCE OF  
SEXUAL SLAVERY AMID INSURGENCY IN NIGERIA**

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BENIN CITY**

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**A LONG ESSAY WRITTEN AND SUBMITTED TO THE FACULTY OF LAW,  
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REQUIREMENT FOR THE AWARD OF THE DEGREE OF BACHELOR OF  
LAWS (LL.B) OF THE UNIVERITY OF BENIN, BENIN CITY.**

**NOVEMBER 2025**

## **CERTIFICATION**

I, **Queenesther IYAMU**, with Matriculation Number **LAW2002882**, hereby certify that apart from references made to the works of other people which have been duly acknowledged herein, this entire project is the product of my personal research, and it has neither in part nor in whole been presented for another degree elsewhere.

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## **APPROVAL**

We certify that this project was written and completed by **Queenesther IYAMU**, with Matriculation Number **LAW2002882**, in partial fulfillment of the requirements for the award of a Bachelor of Laws (LL.B) degree.

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## **DEDICATION**

Firstly, this work is dedicated to God almighty for his grace to see this work to completion. Also, to every person currently with a mental disability, your struggles are recognized and have laid the foundation for a better mental health care system in Nigeria and globally.

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Terrorism (Prevention) Act, 2011

Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015

Violence Against Persons (Prohibition) Act, 2015

## LIST OF ABBREVIATIONS

CEDAW Women	Convention on the Elimination of All Forms of Discrimination Against Women
CEDAW	Convention on the Elimination of Discrimination Against Women
CID	Criminal Investigation Department
DOD	United States Department of Defense
EFCC	Economic and Financial Crime Commission
ICC	International Criminal Court
ICC	International Criminal Court
ICTR	International Criminal Tribunals for Rwanda
ICTY	International and for the Former Yugoslavia
IS	Islamic State
ISIS	Islamic State militant group
MEND	Movement for the Emancipation of the Niger Delta
NAPTIP	National Agency for the Prohibition of Trafficking in Persons
NPF	Nigerian Police Force
NSA	National Security Adviser
UN	United Nations
VAPP	Violence Against Persons Prohibition Act

## ABSTRACT

Sexual slavery has emerged as a critical human rights issue within the broader context of insurgency in Nigeria, particularly in the northeastern region where Boko Haram and other armed groups have operated with relative impunity. The use of sexual slavery by insurgents is not incidental but systematic and strategic. Women and girls are abducted, held against their will, and subjected to repeated sexual violence, forced marriages, and domestic servitude. These actions amount to crimes under both Nigerian law and international humanitarian and human rights law. Despite this, the prosecution of perpetrators remains limited due to a range of legal, institutional, and socio-cultural hurdles. This study examines the intersection between sexual slavery and insurgency in Nigeria, with a focus on the barriers to effective prosecution. It identifies key legal and procedural gaps in Nigerian criminal law, including the lack of explicit provisions for prosecuting sexual slavery as a distinct crime and the inadequacy of victim protection mechanisms during legal proceedings. This study also explores the challenges posed by insecurity in conflict zones, lack of forensic infrastructure, poor case documentation, and limited capacity of law enforcement to gather evidence or secure witness testimony. These problems are compounded by political interference, corruption, and the prevailing stigma faced by survivors, which discourages reporting and cooperation with legal authorities. This study evaluates existing domestic and international legal frameworks, including the Nigerian Criminal Code, the Violence Against Persons (Prohibition) Act of 2015, and Nigeria's obligations under international instruments such as the Rome Statute of the International Criminal Court and the Convention on the Elimination of All Forms of Discrimination Against Women. While these instruments provide a foundation for prosecution, implementation remains weak due to gaps in domestic incorporation and enforcement. The study argues for urgent legal reform, improved institutional coordination, and the development of survivor-centered justice mechanisms. It also recommends the establishment of specialized investigative and prosecutorial units trained in conflict-related sexual violence. Addressing these barriers is essential to breaking the cycle of impunity, ensuring justice for victims, and restoring public trust in the legal system. Without concrete prosecutorial outcomes, efforts to combat insurgency and promote long-term peace and security in Nigeria will remain incomplete.

## CHAPTER ONE

### General Introduction

#### 1.1 Introduction

The general breakdown in law and order which occurs during conflict and displacement leads to an increase in all forms of violence.<sup>1</sup> Armed conflict bring its own distinct forms of violence against women. Violence against women is not a problem that affects only the poor or only women in the Third World; it affects women worldwide of all races and income groups.<sup>2</sup> In all societies, to a greater or lesser degree, women and girls are subjected to physical, sexual and psychological abuse that cuts across lines of income, class and culture.<sup>3</sup> Violence against women and girls continues to be a global epidemic that wounds, tortures, and slays physically, psychologically, sexually and economically. It is one of the most pervasive of human rights violations, denying women and girls equality, security, dignity, self-esteem, and their right to enjoy fundamental freedoms. Violence against women is present in every country, cutting across boundaries of culture, class, education, income, ethnicity and age. Sexual violence in armed conflict has emerged as one of the most complex and persistent human rights violations of the 21st century, challenging national legal systems and international justice mechanisms alike. In the context of Nigeria's ongoing insurgency, the manifestation of this violence in the form of sexual slavery has drawn significant concern from legal scholars, human rights activists, and international agencies.

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<sup>1</sup> World Health Organization, 'Violence against women: In situations of armed conflict and displacement' (1997) <<http://www.who.int/gender/violence/v7.pdf>> accessed 12<sup>th</sup> July 2025.

<sup>2</sup> Carrillo, Roxanna. "Violence Against Women: An Obstacle to Development", in Bunch and Carrillo (eds.), *Gender Violence: A Development and Human Rights Issue*, New York, Rutgers Office of University Publications (1991).

<sup>3</sup> United Nations, 'The World's Women 2010: Trends and Statistics' (2010) <[https://unstats.un.org/unsd/demographic/products/Worldswomen/WW\\_full%20report\\_BW.pdf](https://unstats.un.org/unsd/demographic/products/Worldswomen/WW_full%20report_BW.pdf)> accessed 12<sup>th</sup> July 2025.

Terrorist activity continues to be a major challenge for policy makers in both developed and developing countries. Nigeria on its part has been recently affected by different cases of domestic crimes such as menace of kidnapping and banditry, human trafficking, illicit drug acts and the rise in gender-based violence, abuse and discrimination and cultism. The country has been attacked severally by the dreaded *Boko Haram* terrorist group in the last couple of years with a tremendous casualty number in deaths many of whom are women and children. Indeed, the upsurge of terrorist activities in Nigeria has not only caught international attention, but has also exposed the inherent conflict tradition that characterized inter-group social relationships in the country. Conflict situation in Nigeria manifests as struggle over values, claims to status, power and scarce resources, in which the aims of the opposing parties are not only to gain the desired values, but also to neutralize, injure or eliminate rivals. As a consequence of the gender implication of crime in the society, the demographic composition may be altered through mass movement of people from crime-prone areas to areas perceived to be relatively crime-free. This can also lead to brain-drain and other socio-economic problems.<sup>4</sup> Despite the well documented nature of these abuses and Nigeria's membership in various international legal frameworks including the Rome Statute of the International Criminal Court (ICC) there have been few, if any, prosecutions of insurgents specifically for the crime of sexual slavery. This failure is not merely a reflection of weak law enforcement; it is symptomatic of deeper structural, institutional, and political deficiencies within the Nigerian criminal justice system. The absence of specialized legal provisions, the lack of prosecutorial expertise, limited forensic and investigatory capacity, institutional fragmentation, and minimal survivor protection mechanisms have all contributed to a justice system that

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<sup>4</sup> Adebayo, 'The Multi-Dimensional Impacts of Insurgency and Armed Conflict' (2014) <[www.multidisciplinaryjournals.com](http://www.multidisciplinaryjournals.com)> accessed 12<sup>th</sup> July 2025.

is effectively paralyzed in the face of one of the most serious crimes of modern warfare.<sup>5</sup>

The significance of this research lies not only in its subject matter but also in its timing. As Nigeria seeks to rebuild and stabilize its conflict-affected regions, questions of transitional justice, survivor redress, and accountability are more pressing than ever. Without effective prosecution of sexual slavery and other gender-based crimes committed during insurgency, there can be no meaningful restoration of the rule of law or trust in public institutions. This study positions itself at the intersection of international criminal law, national constitutional obligations, and practical justice delivery, seeking to uncover why Nigeria has failed to prosecute sexual slavery in its insurgency context and how such failure can be remedied.

## **1.2 Background to the Study**

Since the late 2000s Nigeria has experienced an overlapping security crisis in which insurgency and terrorism have reinforced one another, producing a sustained campaign of mass violence in the northeast. What began as an armed, localized rebellion led by *Boko Haram* rooted in a mix of local grievances, ideology, and criminality morphed into transnational terrorist activity and fragmented insurgent networks, expanding the scale and targeting of violence across Borno, Adamawa and Yobe states and spilling into neighbouring Sahel-border countries. The hybrid character of the conflict (insurgent guerrilla tactics, terrorist bombings and transnational recruitment) has made it both a counter-insurgency and counter-terrorism problem, military operations and criminal prosecutions are used side-by-side,

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<sup>5</sup> African Union, 'Women and children in armed conflicts/ Gender mainstreaming' (2013) <<https://www.peaceau.org/en/topic/women-and-children-in-armed-conflicts-gender-mainstreaming#sthash.QTZOpCnY.dpuf>> accessed 12<sup>th</sup> July 2025.

while humanitarian collapse and widespread displacement have created fertile ground for further radicalization.<sup>6</sup>

A critical dimension of this violence is gendered victimization. Insurgent groups have used abduction, rape, forced marriage, and forced sexual servitude as deliberate tactics. Sexual violence has been deployed instrumentally to terrorize communities, break social cohesion, punish perceived opponents, reproduce fighters' households, recruit or coerce female fighters, and generate revenue through trafficking or forced "marriage" markets. Investigations and survivor interviews across multiple reports document thousands of abductions since 2013 (including the Chibok kidnappings) and detail systematic patterns of sexual slavery in Boko Haram captivity rape, forced concubinage, sexual exploitation, and use of women and girls as human shields or suicide bombers. These abuses have been repeatedly characterized as crimes against humanity and war crimes by human-rights monitors.<sup>7</sup> The consequence is a multi-layered harm, direct physical and psychological trauma to survivors, social exclusion and stigma on return, the birth of children in captivity with attendant identity and welfare issues, and long term destabilization of communities already weakened by displacement and economic collapse. Field reports from NGOs and international bodies show that many survivors who escape or are rescued continue to face detention, inadequate rehabilitation, and secondary victimization compounding barriers to reintegration and access to justice.<sup>8</sup> Despite the documented prevalence of sexual slavery and related gender-based crimes within the Boko Haram insurgency, Nigeria

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<sup>6</sup> DV Dan-Azumi, 'Countering Boko Haram insurgency in Northeastern Nigeria: indigenous knowledge as an incentive for rethinking approaches to counterterrorism in Africa' Behavioral Sciences of Terrorism and Political Aggression (2025)1–20. <<https://doi.org/10.1080/19434472.2025.2564140>> accessed 6<sup>th</sup> November 2025.

<sup>7</sup> 'Those Terrible Weeks in Their Camp' (2014) <<https://www.hrw.org/report/2014/10/27/those-terrible-weeks-their-camp/boko-haram-violence-against-women-and-girls?>> accessed 6<sup>th</sup> November 2025.

<sup>8</sup> Amnesty International, 'Nigeria: Girls failed by authorities after escaping Boko Haram captivity' (2024) <<https://www.amnesty.org/en/latest/news/2024/06/nigeria-girls-failed-by-authorities-after-escaping-boko-haram-captivity-new-report/>> accessed 6<sup>th</sup> November 2025.

continues to face significant challenges in translating these violations into successful prosecutions. Although hundreds of suspected militants have been arrested and several mass trials have been conducted since 2017, very few cases have specifically addressed sexual slavery, rape, or forced marriage linked to the insurgency. This has created a persistent accountability gap, where terrorism-related offences are prioritized, while gender-specific crimes despite their scale and gravity remain largely unpunished.<sup>9</sup>

A major stumbling block lies in Nigeria's fragmented legal framework for addressing conflict-related sexual violence. Sexual slavery and other forms of gender-based abuses in armed conflict occupy a grey zone between domestic criminal law, counter-terrorism legislation, and international humanitarian and criminal law. Prosecutors must decide whether to charge offenders under the Criminal Code,<sup>10</sup> Penal Code, Violence Against Persons (Prohibition) Act,<sup>11</sup> Trafficking in Persons (Prohibition) Enforcement and Administration Act,<sup>12</sup> or the Terrorism Prevention Act<sup>13</sup>. Each framework has limitations in scope, application, or evidential requirements, and the absence of explicit domestication of certain international norms on sexual-violence crimes often constrains prosecutorial discretion.<sup>14</sup> These legal uncertainties have resulted in inconsistent prosecutorial approaches and reluctance to pursue charges that reflect the international criminal nature of the offences.

Evidentiary and procedural challenges further undermine effective prosecution. Sexual-violence cases require prompt forensic documentation, credible witness

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<sup>9</sup> Camillus Eboh, 'Nigeria courts convict 125 Boko Haram Islamist insurgents in mass trial' (2024) <<https://www.reuters.com/world/africa/nigeria-courts-convict-125-boko-haram-islamist-insurgents-mass-trial-2024-07-27/>> accessed 6<sup>th</sup> November 2025.

<sup>10</sup> Cap. C. 38, LFN 2004.

<sup>11</sup> Violence Against Persons (Prohibition) Act 2015.

<sup>12</sup> Trafficking in Persons (Prohibition), Enforcement and Administration Act, 2015 is Act No. 4 of 2015.

<sup>13</sup> Terrorism (Prevention and Prohibition) Act, 2022.

<sup>14</sup> TU Akpoghome, 'Analysis of Domestic Legal Framework on Sexual Violence in Nigeria' *Journal of Law and Criminal Justice* (2016) 17-30.

testimony, and secure chain-of-custody mechanisms, all the capacities that are weak in the conflict-affected northeast. Survivors often return from captivity without medical examinations or legal documentation of the abuses suffered, making corroboration difficult. In addition, insecurity, displacement, and inadequate institutional capacity hinder investigators' ability to collect evidence and trace perpetrators.<sup>15</sup> Courts are often forced to rely heavily on victim testimony without sufficient forensic support, weakening prosecutorial outcomes.

Survivor-related barriers also play a critical role. Social stigma attached to rape, forced marriage, and childbirth in captivity discourages survivors from reporting or participating in prosecutions. Moreover, Nigeria lacks robust victim and witness protection systems that ensure safety and confidentiality throughout legal proceedings. Some returnees have been detained, profiled as "Boko Haram wives," or subjected to secondary victimization by security agencies, further reducing trust in state institutions and creating fear around engagement with the justice system. This has allowed many perpetrators to evade accountability, while survivors continue to face psychological, social, and economic consequences without access to justice.<sup>16</sup>

### **1.3 Statement to the Problem**

Sexual slavery perpetrated by insurgent groups in North Eastern Nigeria remains gravely under-prosecuted, despite its widespread and systematic nature since the Boko Haram insurgency escalated in 2009. Also, thousands of women and girls have been abducted, forced into marriage, subjected to repeated sexual abuse, and exploited in domestic and sexual servitude without perpetrators being held legally accountable under national or international law. This failure reflects deep structural and institutional weaknesses rather than mere legal oversight.

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<sup>15</sup> Amnesty International (n8).

<sup>16</sup> U.S. Department of State, '2025 Trafficking in Persons Report: Nigeria' <<https://www.state.gov/reports/2025-trafficking-in-persons-report/nigeria/>> accessed 6<sup>th</sup> November 2025.

Thus, the issues which this study seeks to address are:

- i. What is the legal status and recognition of sexual slavery under Nigerian law, and how does it compare with international legal standards, particularly those articulated in the Rome Statute of the International Criminal Court?
- ii. How do institutional weaknesses within the Nigerian criminal justice system such as investigative capacity, prosecutorial practices, judicial procedures, and inter-agency coordination impede the prosecution of sexual slavery in insurgency contexts?
- iii. The role of the Nigerian military and other security forces in the identification, documentation, and referral of cases involving sexual slavery.
- iv. What are the social, cultural, and psychological factors affecting victims' willingness and ability to pursue justice?
- v. What role do international actors such as the International Criminal Court, the United Nations, and donor agencies play in pressuring or supporting Nigeria to prosecute sexual slavery, and how can this role be more effectively utilized without undermining national sovereignty?
- vi. What are the long-term implications of the failure to prosecute sexual slavery for victims, communities, and national peace building?

This study therefore identifies the prosecution of sexual slavery in Nigeria's insurgency as an urgent but neglected area of legal and policy intervention. Thus, the study is framed to critically assess these challenges and propose actionable solutions that align with national laws and international legal standards.

#### **1.4 Aim and Objectives of the Study**

The aim of study is to examine the legal, institutional, and socio-political challenges hindering the prosecution of sexual slavery within the context of insurgency in Nigeria, and propose strategies that align with international best practices.

To achieve this, the study will pursue the following objectives:

- i. To examine the legal status and recognition of sexual slavery under Nigerian law and evaluate its conformity with international legal standards, particularly those outlined in the Rome Statute of the International Criminal Court, with the aim of identifying areas of divergence and gaps in implementation.
- ii. To analyze the institutional weaknesses within the Nigerian criminal justice system including investigative capacity, prosecutorial practices, judicial procedures, and inter-agency coordination and assess how these structural and procedural deficiencies hinder the effective prosecution of sexual slavery in insurgency affected contexts.
- iii. To assess the role of the Nigerian military and other security agencies in the identification, documentation, and referral of cases involving sexual slavery, and determine how their actions or in-actions influence accountability and justice outcomes.
- iv. To investigate the social, cultural, and psychological factors that affect victims' willingness and ability to seek justice, focusing on stigma, community perceptions, trauma, and gender-related barriers within affected populations.
- v. To evaluate the role of international actors such as the International Criminal Court, the United Nations, and donor agencies in supporting or pressuring Nigeria to prosecute sexual slavery, and propose mechanisms for strengthening international engagement while preserving national sovereignty and domestic legitimacy.

vi. To explore the long-term implications of Nigeria's failure to prosecute sexual slavery on victims, affected communities, and national peace building efforts, with particular attention to justice deficits, reconciliation challenges, and the erosion of public trust in state institutions.

### **1.5 Scope and Limitations of the Study**

This study examines sexual slavery within the context of insurgency in Nigeria, focusing specifically on the legal and institutional challenges hindering effective prosecution. The scope is defined thematically, geographically, temporally, and institutionally. Thematically, the research is limited to sexual slavery perpetrated during armed conflict by non-state armed groups particularly Boko Haram and its factions in northeastern Nigeria. It considers sexual slavery as a form of gender-based violence involving abduction, coercion, confinement, and repeated sexual exploitation. While related issues of peacetime or domestic sexual exploitation may be referenced for context, the central focus remains on conflict-related accountability and justice for victims.

Geographically, the study concentrates on Nigeria, with emphasis on Borno, Yobe, and Adamawa states, which have experienced the highest levels of insurgent violence since 2009. References to other Nigerian states and international or regional bodies are included only where they are relevant to the national legal framework or Nigeria's international obligations.

Institutionally, the research focuses on key actors within Nigeria's justice and governance system, including the Nigerian Army, Police, DSS, Ministry of Justice, judiciary, NAPTIP, the National Human Rights Commission, and relevant civil society organizations. International actors are considered only to the extent that they

influence domestic accountability processes. Due to insecurity, ethical constraints, and limited field access, the study relies heavily on secondary data government documents, policy reports, academic literature, judicial records, and media investigations rather than direct field interviews with survivors or justice officials. This limits the ability to verify official claims or capture firsthand experiences. Access to detailed case records also constitutes a major limitation. Terrorism and insurgency-related trials in Nigeria are often held in restricted or military settings, limiting transparency, case law analysis, and access to judicial reasoning or sentencing patterns.

### **1.6 Significance of the Study**

This study is significant because it addresses a critically under-researched yet persistent human rights issue in Nigeria: the prosecution of sexual slavery committed during the Boko Haram insurgency. Despite the prevalence of conflict-related sexual violence in the northeastern region, scholarly and legal attention to the subject remains limited. By interrogating Nigeria's capacity to ensure accountability for such crimes, the study contributes to urgent national and international debates on justice for victims of armed conflict.

The research is important for assessing the effectiveness of Nigeria's legal frameworks including criminal, anti-trafficking, and terrorism laws while identifying gaps in their implementation. Through an analysis of statutes, case law, and institutional practices, the study provides evidence on how the law functions in conflict settings and evaluates Nigeria's compliance with international obligations under the Rome Statute, CEDAW, and the African Charter on Human and Peoples' Rights. It also sheds light on institutional barriers to prosecution, such as weak investigative systems, limited forensic capacity, poor victim protection, and the

dominance of military-led counterinsurgency operations, which undermine civilian justice processes.

Beyond legal analysis, the study has strong implications for transitional justice and peace building. Effective prosecution of sexual slavery forms part of post-conflict reconstruction, ensuring survivors receive justice, recognition, and protection from future violations. Without accountability, impunity prevails, and public trust in state institutions erodes. The study therefore highlights the need for survivor-centered reforms within Nigeria's justice system.

Additionally, the research aligns with global efforts to end conflict-related sexual violence, advancing the objectives of UN Security Council Resolution 1325 and the Sustainable Development Goals, particularly SDG 5 (gender equality) and SDG 16 (peace, justice, and strong institutions). It contributes knowledge that is valuable to policymakers, legal practitioners, scholars, human rights advocates, and development actors, offering a foundation for reforms and international engagement aimed at strengthening accountability for sexual slavery in Nigeria's insurgency context.

### **1.7 Research Methodology**

This study employs the doctrinal legal research method, involving examination of existing laws, judicial decisions, and scholarly writings relevant to the prosecution of sexual slavery in Nigeria. This approach is appropriate for this research because it focuses on identifying, interpreting, and evaluating the legal rules and principles that govern sexual slavery and related crimes within national and international legal frameworks.

The study relies on two main categories of materials: primary and secondary sources. Primary sources include relevant statutes such as the Terrorism (Prevention) Act, the Violence Against Persons (Prohibition) Act, the Child Rights Act, and the

Constitution of the Federal Republic of Nigeria, as well as international instruments like the Rome Statute of the International Criminal Court, Convention on the Elimination of Discrimination Against Women (CEDAW), and the African Charter on Human and Peoples' Rights. Judicial decisions from Nigerian and international courts are also examined. Secondary sources on the other hand comprise textbooks, academic journal articles, policy papers, and reports from credible organizations.

### **1.8 Conclusion**

This study has highlighted the critical and largely unaddressed issue of the under-prosecution of sexual slavery in Nigeria's insurgency context. Despite the prevalence and severity of these crimes perpetrated by groups like Boko Haram, significant legal, institutional, and socio-political challenges continue to impede justice for survivors. Addressing these deficiencies through comprehensive legal reforms, strengthened institutional capacity, and survivor-centered approaches is crucial, not only for accountability but also for long-term peace building and the restoration of trust in state institutions. It is imperative that Nigeria aligns its practices with international legal standards and prioritizes the prosecution of sexual slavery to ensure justice and healing for victims and to prevent future atrocities.

## CHAPTER TWO

### Conceptual, Theoretical & Historical Framework

#### 2.1 Conceptual Clarifications

##### 2.1.1 Sexual Violence

Sexual violence has variously been described as ‘one of the most horrific weapons of war, an instrument of terror used against women;<sup>1</sup> ‘the most intimate of violations’<sup>2</sup> and an opportunity for men to ‘vent their contempt for women’.<sup>3</sup> Sexual violence during conflicts and wars historically evolved from the practice in ancient times when women were regarded as part of the ‘spoils of war’ to which soldiers are entitled.<sup>4</sup> As explained by Brownmiller, ‘the body of the raped female becomes a ceremonial battlefield, a parade ground for the victors trooping of the colors’.<sup>5</sup> Against this background we intend to conceptualize sexual violence against women in the course of armed conflicts. Acts which constitute sexual violence include ‘rape, sexual mutilation, sexual humiliation, forced prostitution, and forced pregnancy’. The rape of women has always been a much-favoured tactic adopted by members of conventional armies and insurgents in the course of wars and other forms of armed conflicts.

In a special report by the United Nations (UN) Commission on Human Rights, war-time rape was described as ‘a deliberate and strategic decision on the part of combatants to intimidate and destroy “the enemy” as a whole by raping and enslaving women who are identified as

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<sup>1</sup> CE Attah, ‘Boko Haram and sexual terrorism: The conspiracy of silence of the Nigerian antiterrorism laws’ (2016) *African Human Rights Law Journal* 385-406.

<sup>2</sup> P Kirby ‘Rethinking war/rape feminism: Critical explanation and the study of wartime sexual violence, with special reference to the Eastern Democratic Republic of Congo’ unpublished PhD thesis London School of Economics (2012) 2 <<http://etheses.lse.ac.uk/586/1/kirby-paul-2012-rethinking-warrape-thesis.pdf>> accessed 18th July 2025.

<sup>3</sup> These views were eloquently espoused by Brownmiller in her widely-read book, S Brownmiller *Against our will: Men, women and rape* (1975) where she described rape as a tool ‘of oppression that men use to establish their manhood’.

<sup>4</sup> CE Attah (n1).

<sup>5</sup> *Ibid.*

members of the opposition group'.<sup>6</sup> The report stated further:<sup>7</sup> “ ‘Rape’ should be understood to be the insertion, under conditions of force, coercion or duress, of any object, including but not limited to a penis, into a victim’s vagina or anus; or the insertion, under conditions of force, coercion or duress, of a penis into the mouth of the victim.”

Historically, rape in conflict has been widespread from the acceptance of rape by Greek and Roman forces<sup>8</sup> to documented violations across centuries, including the Holocaust,<sup>9</sup> the 1937 Rape of Nanking, the Vietnam War, the 1971 Bangladesh war,<sup>10</sup> mass rape in Bosnia-Herzegovina,<sup>11</sup> and the 1994 Rwandan genocide. Modern insurgent and Insurgent groups continue this legacy.<sup>12</sup> Explanations for wartime sexual violence vary. Some perceive it as a “reward” for soldiers<sup>13</sup> or a morale-boosting mechanism, exemplified by Japanese “comfort stations”. More strategically, rape functions as an instrument of terror and political coercion aimed at humiliating and destabilizing communities, exploiting the high cultural value placed on female chastity. Through this lens, women become pawns used to symbolically emasculate the opposing side. Sexual violence is also viewed as a “cheap weapon of war”, requiring no arms yet leaving profound, multigenerational trauma.<sup>14</sup> Despite its prevalence, for decades perpetrators enjoyed impunity a “collective amnesia” surrounding accountability.<sup>15</sup> This began to change with the International Criminal Tribunals for Rwanda

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<sup>6</sup> UN Sub-Commission on the Promotion and Protection of Human Rights, Systematic Rape, Sexual Slavery and Slavery-Like Practices during Armed Conflict: Final Report submitted by Gay J McDougall, Special Rapporteur, 22 June 1998, <<http://www.refworld.org/docid/3b00f44114.html>> accessed 18th July 2025.

<sup>7</sup> *Ibid.*

<sup>8</sup> C Strohmetz ‘Rape, women and war’ <[https://www.usm.edu/gulfcoast/sites/usm.../rape\\_women\\_and\\_war](https://www.usm.edu/gulfcoast/sites/usm.../rape_women_and_war)> accessed 18th July 2025.

<sup>9</sup> N Farwell ‘War rape: New conceptualisations and responses’ (2004) 19 *Affilia* 389, <<http://aff.sagepub.com/content/19/4/389.refs.html>> accessed 18th July 2025.

<sup>10</sup> KS Islam, ‘Breaking down the Birangona: Examining the (divided) media discourse on the war heroines of Bangladesh’s Independence Movement’ (2012) 6 *International Journal of Communication* 2131, <<http://ijoc.org/index.php/ijoc/article/viewFile/874/787>> accessed 18th July 2025.

<sup>11</sup> CS Snyder and others, ‘On the battleground of women’s bodies: Mass rape in Bosnia- Herzegovina’ <<http://aff.sagepub.com/cgi/content/refs/21/2/184>> accessed 18th July 2025.

<sup>12</sup> A Desforges, ‘Leave none to tell the story: Genocide in Rwanda’ *Human Rights Watch* (1999) 163-164.

<sup>13</sup> M Linehan, ‘Comfort women’ in MD Smith (ed) *Encyclopaedia of rape* (2004) 47.

<sup>14</sup> CE Attah (n1).

<sup>15</sup> KA Koenig and others, ‘The jurisprudence of sexual violence: Working Paper of the Sexual Violence and Accountability Project’ *Human Rights Centre, University of California Berkeley* (2011) 6.

(ICTR) and for the Former Yugoslavia (ICTY), which set landmark jurisprudence by recognizing rape as a crime against humanity and a prosecutable war crime.

## **ii. Insurgency**

The United States Department of Defense (DOD) defines Insurgency as ‘an organized movement aimed at the overthrow of a constituted government through use of subversion and armed conflict.’<sup>16</sup> This definition suggests that insurgent groups or Insurgent groups employ unlawful means towards achieving an end, which could be political, religious, social or even ideological. The goal of insurgency is to confront and overthrow an existing government for the control of power, resources or for power sharing.<sup>17</sup> Insurgency and its strategies are as old as warfare itself. Terrorists and criminals adopt these gorilla methods of fighting to attack and withdraw back into their hideout targeting mostly women and children who are soft targets. Partly as a result of the inability of the Nigerian state to meet developmental yearnings of welfare and security of lives and properties, the challenge of insurgency is now more evident than before.

## **2.2 Theoretical Frameworks**

Peace can exist separately of conflict, violence and war. However, war (armed conflict) is the only one aspect of violence which is “physical, open and direct.”<sup>18</sup> Galtung went further to argue that a society cannot be described as peaceful where structural poverty, exclusion, intimidation, oppression, want, inequality, unemployment, fear and all sundry types of psycho-social pressures still constitute the society’s mainstay. In sociological perspective, peace can be viewed as a condition of social harmony in which there are no social antagonisms; in which case individuals and groups are able to meet their social needs and

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<sup>16</sup> P Hellesen, ‘Counter Insurgency and its Implications for the Norwegian Special Operations Forces. A Thesis for the Naval Postgraduate School Monterey’ California. (2008) 14.

<sup>17</sup> *Ibid.*

<sup>18</sup> J Galtung, ‘Violence, Peace and Peace Research’ (1969), *Journal of Peace Research*. 6

expectation such as food, cloth, housing and social amenities for a worthy life.<sup>19</sup> The implication is that where these are lacking, there is contention between those who have and those who have not for the available resources in the society. Two basic theories *structural functionalism* and *dialectical materialism* could be derived from the above. Scholars of structural functionalist looked at conflict as a function of the structural constituents of the society. Thus, poverty, unemployment, crime, social inequality, marginalization, relative deprivation, corruption, injustice, oppression and exploitation are regarded as sources of conflict which could lead to political violence and war. The general thought therefore, is that conflict exists in the society as a result of struggle for scarce resources. Thus, peace is achieved where existing social structures perform their functions adequately, and supported by the requisite culture, social norms, and values.<sup>20</sup> On the other hand, the dialectical materialism which is propounded by Karl Marx<sup>21</sup> argues that peace can only be achieved on the basis that there are classless people in the society. The implication is that there should be a redistribution of resources which are heavily domiciled in the hands of few men in the society. It calls for a rethink in our political and economic structure to address the imbalance in the society. The consequence is that, political violence and war will continue to exist in society so long as unequal relations exist within societies. The dialectical contradictions which exist in the distribution of economic resources must be reviewed in order for societies to live in peace and harmony.

According to Walter Wallace<sup>22</sup> in his explanation of what he adapted, 'The wheel of science', 'A theory is a generalized statement based on facts that are used to explain and predict the relationship that exists between social phenomena.' However, a theory is a model or

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<sup>19</sup> M Haralambos and M Holborn, 'Sociology: Themes and perspectives' (7<sup>th</sup>ed.), (London: Harper Collins Publishers Limited 2008).

<sup>20</sup> *Ibid.*

<sup>21</sup> Karl Marx, 'Communism and the Augusburger Allegemeine Zeitung' (New York Oxford University Press 1977).

<sup>22</sup> Sk Aliyu and BO Ushie, 'Gender Implications of Terrorism and Criminality in the North-East Nigeria- 2013-2018, Borno State, Nigeria', *The International Journal Of Humanities & Social Studies* (2020) 232.

framework for observation and understanding, which shapes both what we see and how we see it. Terrorism is not new in Africa, however countries such as Algeria, Burundi, Congo, Sudan, Ethiopia, Eritrea, Djibouti, Somalia, Kenya, Uganda, Tanzania, Rwanda. Nigeria and recently Cameroon and others have seen an increase in insurgent act in recent years There are many explanations of why insurgent attack occurs and some attribute it to poor economic condition, which is consistent with popular theory of deprivation and poverty, low education attainment and historical event such as slavery and ethnic conflict have also been used to explain terrorism. Viewed as conflict resolution mechanism, terrorism can be broadly viewed as a strategy deployed by individuals either singular or in groups, to resolve disputes.

The basis of such disputes could be on distributional issues, for example; of political power, income, wealth, or merely existential based on religious conflict or have a foundation in the historical past causing persistent conflict. To the extent that terrorism is caused by the distributional issues such as income inequality, the analysis of Krueger and Maleckova<sup>23</sup> for example, raised doubt about terrorism been caused by ignorant and poverty as they found that terrorists are well educated and typically not members of society's poor. The incidence of terrorism brings instability and disrupts the economic performance which reduces the income level of people. Deprivation theory is used for this study to analyse the gender implication of terrorism and criminality in Nigeria, taking a case study by giving attention on the north-eastern part of the country. Lack of material benefits for the citizens, is in most cases considered to be one of the major causes of conflicts in our society today. Deprivation theory talked about how some portion of the people in the society are deprived of their basic necessities in life, especially rights to proper education for children, and on the other hand some have the opportunities and privilege to enjoy these rights, thus the deprived see themselves as a disadvantage in their own society and are being neglected by the government.

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<sup>23</sup> *Ibid.*

The result of deprivation may create strong grievance and aggressiveness on the youth in the society. The feeling of deprivation makes the youths join social movements that may lead the majority to commit crime in the society. Examples of economic deprivation in Nigeria that causes violent conflicts can be seen in two perspectives; First for example, there's the case of the Niger Delta Militant Group in the Southern part of the country, with the name, 'the Movement for the Emancipation of the Niger Delta (MEND).' According to Enwere,<sup>24</sup> after waiting and peacefully agitating for what the people of the zone considered a fair share of the oil wealth that is explored from their land, the youth took the law into their hands by vandalizing oil pipeline, kidnapping oil workers for ransom and generally creating problems for those they believe were responsible for their frustrations and problems. Secondly, the case of the Boko Haram sect from the Northern part of the country in the north-eastern areas like Borno, Taraba, Adamawa and Bauchi States to mention the major crisis areas in recent years. Enwere, opined that over 80% of the Boko Haram membership consists of 'Almajiris' who live a life of abject poverty and deprivation.

### **2.2.1 Gender-based Theories**

Gender-based theoretical lenses offer a critical framework for understanding sexual slavery in armed conflict, particularly in contexts such as Boko Haram's insurgency in Nigeria. At the core of this approach is Feminist Legal Theory, which challenges traditional legal systems for historically failing to recognize sexual violence as a serious public and political issue. Catherine MacKinnon argues that sexual violence, including rape and sexual enslavement, is not an isolated act of individual deviance, but a structural tool of patriarchy through which male dominance is constructed and reproduced.<sup>25</sup> Feminist legal scholars contend that the law has been shaped by male-centred norms, resulting in legal doctrines and prosecutorial systems that often trivialize, ignore, or mishandle gendered harm. This theory insists that

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<sup>24</sup> *Ibid* (n8) 19.

<sup>25</sup> C MacKinnon, 'Feminism Unmodified: Discourses on Life and Law' (Harvard University Press (1987); C MacKinnon, '*Are Women Human? And Other International Dialogues*' (Harvard University Press (2006).

sexual slavery in conflict must be understood as a systemic violation of gendered human rights, designed to reinforce patriarchal control, destroy women's autonomy, and reproduce gender subordination at both individual and collective levels. It therefore calls for survivor-centred legal reforms and gender-sensitive prosecution strategies that acknowledge the structural nature of such violations.<sup>26</sup>

Building on this, Intersectionality Theory, developed by Kimberlé Crenshaw, expands the analysis by explaining how gender oppression intersects with other social identities such as ethnicity, religion, class, displacement, age, and marital status to shape victims' vulnerability to sexual slavery and access to justice.<sup>27</sup> In the Nigerian conflict setting, for example, women and girls from rural, poor, or minority ethnic communities are disproportionately targeted by extremist groups, and often silenced by stigma, socio-cultural norms, and insecurity. Intersectionality thus shows that effective legal responses must move beyond a one-size-fits-all model and instead develop context-specific strategies that reflect layered discrimination and trauma.

A further lens is provided by Gendered Security Studies and Masculinity Theory, which examine how militarised conflict constructs and reinforces violent forms of masculinity that normalize sexual domination. Scholars such as Cynthia Enloe argue that conflict environments embed a militarized gender hierarchy in which hyper-masculinity, aggression, and the subordination of women become markers of power, loyalty, and group cohesion among combatants.<sup>28</sup> This is particularly evident in insurgent groups like Boko Haram, where sexual slavery serves strategic functions: rewarding fighters, asserting male dominance, humiliating targeted communities, controlling women's bodies and reproductive capacities, and symbolically weakening the enemy's social fabric. These theories demonstrate that

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<sup>26</sup> *Ibid.*

<sup>27</sup> K Crenshaw, 'Demarginalizing the Intersection of Race and Sex' *University of Chicago Legal Forum* (1989) 139–167.

<sup>28</sup> C Enloe, 'Maneuvers: The International Politics of Militarizing Women's Lives' (University of California Press (2000) 45.

sexual slavery is not merely opportunistic, but institutionalized as a weapon of war, terror, and ideological control, rooted in gendered power relations.

Collectively, these gender-based theories reveal that prosecuting sexual slavery requires more than criminalizing individual acts of rape or abduction. They demand a transformative legal approach that recognizes conflict-related sexual violence as a structural, gendered, and intersectional harm. Applying these theories strengthens the argument for gender-responsive legal reforms, survivor-centred prosecution models, specialized courts and procedures for sexual violence, and reparative justice measures that address not only physical harm but also gendered inequalities that allow such crimes to occur and persist.

### **2.3 Historical Overview**

Throughout the 20th century, terrorism was largely limited to regional and national boundaries, and predominantly based on revolutionary nationalism in the fight against colonial powers. However, since the attacks in the United States in 2001 by Al Qaeda, smaller Insurgent groups have been emboldened to strike far and wide, and to use their tactics in waging bloody and asymmetrical warfare in numerous countries.<sup>29</sup> In recent years, insurgent networks have evolved, moving away from a dependency on state sponsorship; many of the most dangerous groups and individuals now operate as non-state actors. Taking advantage of porous borders and interconnected international systems finance, communications, and transit Insurgent groups can reach every corner of the globe. While some remain focused on local or national political dynamics, others seek to affect global change. In Nigeria, 2001 was also the year which saw the emergence of the Boko Haram insurgency which targeted what they saw as the “evil” of western education, including the education of girls.<sup>30</sup> Boko Haram is an insurgent group in northeastern Nigeria employing organized terror to advance its objectives. In its early days, it was supported by Al-Qaeda and

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<sup>29</sup> Osita Njoku and others (2015). ‘Consequences of Boko Haram terrorism on women in Northern Nigeria’ *Applied Research Journal* (Vol.1, pp.101-107).

<sup>30</sup> *Ibid.*

appears to have first become active in a noticeable way in 2002. Headquartered in an Islamic center in Maiduguri, Borno State, it recruited combatants from the children of poor, dispossessed Nigerians, as well as Chadian and Nigerian children enrolled in its Islamic schools.<sup>31</sup> The Boko- Haram insurgent group is motivated by the ideological doctrine that Western education is forbidden (haram) and the groups' adherents appear to be thoroughly indoctrinated in the incomprehensible doctrine of the absurd. The terror group has embarked on grave violations of human rights and international humanitarian law: forced conversion of people of other faith to Islam; murder, torture and persecution of members of other religions; wanton attacks on churches and mosques and killing of women, children and civilian populations.<sup>32</sup>

Boko Haram was founded by Mohammed Yusuf in 2002 in Maiduguri, the capital of the north-eastern state of Borno as a Sunni Islamic fundamentalist group advocating strict Sharia law and opposing the westernizing of Nigerian society which accounts for the name 'Boko Haram' meaning 'Western Education is forbidden'.<sup>33</sup> Yusuf used existing infrastructure in Borno of the Izala society, a popular conservative Islamic sect originally welcomed into government to recruit members before breaking away to form his own faction.. However, the sect initially operated in a quietest nature, conducting its operations more or less peacefully during the first seven years of its existence. They then withdrew from society into remote northeastern areas but were soon to change into a Salafist-Jihadi group known for insurgent attacks since 2009 with political goal of creating an Islamic state.<sup>34</sup> Although Boko Haram has been linked with Al-Qaeda over the years, it expressed support for the Islamic State (IS) in 2014 and pledged formal allegiance on 7 March, 2015. Violent extremism has severely

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<sup>31</sup> Chothia, Farouk. (2013) 'Boko Haram Timeline: From Preachers to Slave Raiders' BBC May 15 <<http://www.bbc.com/news/worldafrica-22538888>> accessed 24th July 2025.

<sup>32</sup> Human Rights watch News (29 November, 2013), 'Boko Haram abducts women, recruits children' <<http://www.hrw.org/news/2013/11/29/nigeria-boko-haram-abductswomen-recruits-children>> accessed 24th July 2025.

<sup>33</sup> CE Attah, 'Boko Haram and sexual terrorism: The conspiracy of silence of the Nigerian anti-terrorism laws' (2016) *African Human Rights Law Journal* 385-406.

<sup>34</sup> *Ibid.*

affected Northern Nigeria, resulting in death, kidnappings, abductions, sexual abuse and slavery, the destruction of property, political instability, the proliferation of small arms and light weapons, and deepening mistrust and enmity among different groups in the region. Boko Haram's rise and insurgency have dramatically changed the lives of thousands of women and girls, often casting them voluntarily or by force into new roles outside the domestic sphere. Some joined to escape their social conditions; others were abducted and enslaved.<sup>35</sup> The group is not centrally organized. It operates in different areas with different local commanders, who often send fighters from one area to undertake attacks in another, or move units around.

While it could be argued that the history of Nigeria is replete with the activities of Islamic sects, it is a fact that a multiplicity of domestic actors and interests combine within the complex political environment that the Nigerian represents to sustain the philosophy of these groups.<sup>36</sup> The Nigerian military repression of Boko Haram's July 2009 uprising and the emergency rule imposed by government in Adamawa, Borno and Yobe states in northeast-Nigeria in 2012 certainly contributed to an intensification of violence and the group's transformation into a Insurgent group. Equally contributory was the extra-judicial killing of Mohammed Yusuf in police custody in July 2009 which led to the enthronement of the more radicalized members of the group headed by Abubakar Shekau. Prior to 2009, Boko Haram did not express commitment to the violent overthrow of the Nigerian government. Instead, Yusuf condemned northern Muslims for participating in what he described as "an illegitimate, non-Islamic state and preached a doctrine of withdrawal".<sup>37</sup> With increased conflict between Christians and Muslims, government crackdowns on Boko Haram in Maiduguri and elsewhere, as well as rampant police brutality and violent measures by state agents

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<sup>35</sup> *Ibid* (n33).

<sup>36</sup> O Adetayo, 'Boko Haram has infiltrated my Government Jonathan' *The Punch* 2014 August 16.

<sup>37</sup> MO Okome, 'Fleeing Boko Haram: The Trauma of Captivity and Challenge of Freedom' (2017) *African Peacebuilding Network* 11.

culminating in the deaths of approximately seven hundred of its members (including Yusuf), Boko Haram became radicalized, with its central objective expanding to the creation of an Islamic state in Nigeria. Boko Haram's act of terrorism in Nigeria was the reason why "the country witnessed the largest increase in insurgent deaths ever recorded by any country, increasing by over 300 percent to 7,512 fatalities and has become the most deadly Insurgent group in the world".<sup>38</sup> According to Global Terrorism Index Report 2015, Boko Haram featured prominently in the world's 20 most fatal insurgent attacks in 2014. A Nigerian military offensive against Boko Haram reclaimed much of the territory once held by the radical group which pledged allegiance to the Islamic State militant group (ISIS) in 2015. Although Boko Haram faces strong push back and loss of territories, it remains capable of launching attacks just as the militants retain the ability to carry out regular suicide bombings and gun attacks in Nigeria and surrounding countries. Both women and men suffer from traumas, abuses and loss of control caused by war, but the impact of these factors is experienced differently by women and men. Gender plays an important role as women are often disproportionately affected by religious violence and conflict. For Boko Haram, its appeal to some women and the significance of women and girls for the group should be understood in the context of the North East's heavily patriarchal societies, a widespread adherence to Islamic tenets and challenges to established beliefs and practices. It is thus, patriarchal nationalism come to life, employing gender norms to define women as child bearers, and men as soldiers.

Since its emergence in 2002, Boko Haram has paid particular attention to women in rhetoric and actions, partly because of the intense debate surrounding their role in society in the North East. Among other revivalist Islamic movements, the sect called for tighter restrictions on them in some areas of life but also promoted their access to Islamic education and offered

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<sup>38</sup> *Ibid* (n1).

financial empowerment. With patriarchy, poverty, corruption, early marriage and illiteracy long thwarting their life chances, some women saw an opportunity in Boko Haram to advance their freedoms or reduce their hardship. Thereafter, Boko Haram began to abduct women and girls for both political and pragmatic ends, including to protest the arrest of female members and relatives of some leaders. The seizure of more than 200 schoolgirls near Chibok in 2014 was a much publicized spike in a wider trend. The group took Christian and later Muslim females to hurt communities that opposed it, as a politically symbolic imposition of its will and as assets. By awarding “wives” to fighters, it attracted male recruits and incentivised combatants. Because women were not considered a threat, female followers and forced conscripts could initially circulate in government-controlled areas more easily, as spies, messengers, recruiters and smugglers. For the same reason, from mid-2014, Boko Haram turned to female suicide bombers. Increasingly pressed for manpower, it also trained women to fight.<sup>39</sup> The imposition of Sharia law in the Northern States of Nigeria at the end of the military dictatorship in 1999 provided the context for the rise and open support for groups such as Boko Haram. As long as there was a military dictatorship to crush opposition to exploitation and economic terrorism, state terror supplemented domestic violence and the exploitation of young girls. However, the anti-dictatorship struggle had taken such deep roots that the resort to religion was deemed the most expedient force to divide the working peoples of Nigeria and to enforce the super exploitation of women.<sup>40</sup>

The activities of Boko Haram and similar insurgent groups have therefore entrenched a pattern of gender-based crimes, particularly sexual slavery, forced marriage, and sexual violence, which constitute serious breaches of international humanitarian and human rights

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<sup>39</sup> MO Okome, ‘Fleeing Boko Haram: The Trauma of Captivity and Challenge of Freedom’ (2017) *African Peacebuilding Network* 11.

<sup>40</sup> Horace Campbell (2014), ‘The menace of Boko Haram and fundamentalism in Nigeria’ <<https://www.pambazuka.org/governance/menace-boko-haram-andfundamentalism-nigeria>> accessed 24th July 2025.

law. Prosecuting the above offences in Nigeria is faced with legal, institutional, and evidential challenges.

## **2.4 Conclusion**

In summary, this chapter shows that sexual violence and insurgency are deeply interwoven phenomena, underpinned by structural, economic, and ideological factors that perpetuate gender based abuses during armed conflicts. Conceptually, sexual slavery has evolved from being treated as an unfortunate by product of war to a deliberate tool of terror and political intimidation. The historical examples presented, spanning from ancient warfare to modern insurgencies, establish a disturbing continuity in the weaponization of female bodies during conflict. The theoretical perspectives discussed especially deprivation theory reveal how inequality and systemic neglect catalyze insurgent behavior and simultaneously expose marginalized groups, particularly women, to exploitation. In the Nigerian context, the rise of Boko Haram exemplifies how insurgency exploits societal fractures, using women not only as victims but also as tactical instruments for propaganda, recruitment, and violence. The patterns of abduction, forced marriage, and sexual abuse by insurgent groups are not random but are structured practices rooted in a broader socio-political reality of exclusion and patriarchy. Understanding these intersections is critical for developing legal, institutional, and social responses to address both the root causes and the human rights implications of such crimes.

## **CHAPTER THREE**

### **Legal And Institutional Frameworks In Nigeria For Battling Insurgency And Sexual Slavery In Nigeria**

#### **3.1 Domestic Legal Framework**

Nigeria's response to insurgency and to sexual slavery (including trafficking, forced marriage and sexual exploitation perpetrated by insurgent groups such as Boko Haram) rests on a mix of criminal statutes, specialized anti-trafficking and gender violence laws, counter-terrorism legislation, and a set of national security and enforcement bodies. Since the beginning of the Boko Haram terrorist organization in 2009, Nigeria has been the target of ongoing terrorist strikes. The Nigerian government, in response to these incidents, has established a legislative framework for counter-terrorism. This framework outlined some legislation, including the Terrorism Prevention Act 2011,<sup>1</sup> the Cybercrimes Prohibition and Prevention Act 2015,<sup>2</sup> etc. Despite these legislations, Nigeria still has a lot of work to do in the fight against terrorism. The lack of efficient application of the legal framework is one of the major challenges. The inability of Nigerian law enforcement agencies to adequately prevent and respond to terrorist acts has also been criticized due to their ineffective coordination and poor resources.

##### **3.1.1 Constitution of the Federal Republic of Nigeria (1999)**

The Constitution expressly protects human dignity and forbids slavery/servitude and forced or compulsory labour while also prohibiting torture and inhuman or degrading treatment. This is the constitutional source of the personal rights argument against "sexual slavery" as a condition and practice; the Constitution supplies the rights framework, but not the penal definitions or prosecutorial mechanics.<sup>3</sup> The Constitution also establishes the Armed Forces and sets their functions to include "suppressing insurrection and acting in aid of civil authorities to restore order" (subject to enabling Acts of the National Assembly).

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<sup>1</sup> Terrorism (Prevention) Act, 2011.

<sup>2</sup> Cybercrime (Prohibition, Prevention, etc.) Act 2015.

<sup>3</sup> Sections 34&35 the Constitution of the Federal Republic of Nigeria 1999 (as amended).

### 3.1.2 Terrorism (Prevention) Act

Prior to the enactment of the Terrorism (Prevention) Act, 2011 (as amended by the Terrorism (Prevention) (Amendment) Act, 2013) Nigeria had no specific law dealing with terrorism. What served as counter-terrorism laws were mainly provisions of the Criminal Code and the Penal Code germane to the specific acts complained about. The only law that made mention of terrorism then was the subsisting Economic and Financial Crimes Commission (Establishment) Act 2004,<sup>4</sup> which merely defined and prescribed penalties for acts of terrorism. The Terrorism Prevention Act, therefore, expressly provides the requisite legal framework for the prevention and punishment of terrorism in Nigeria. The Terrorism (Prevention) (Amendment) Act, 2013 amended certain aspects of the Terrorism (Prevention) Act, 2011.

The Terrorism Prevention Act (as amended) begins by prohibiting all acts of terrorism and the financing of terrorism.<sup>5</sup> The emphasis placed on the financing of terror has been informed by the key role played in terrorism by finance. The Act further provides that when a person or body corporate knowingly inside or outside Nigeria, directly or indirectly, willingly<sup>6</sup>

The Act equally strengthened the offences designated as terrorism, for example, (i) belonging to or attending meetings of groups designated as terrorist;<sup>7</sup> (ii) providing finance<sup>8</sup> or (iii) logistics to such group.<sup>9</sup> Towards this end, the Act sets out measures intended to provide for the prevention, prohibition and countering of terrorist activities and their financing in Nigeria. It also provides for the effective implementation of conventions<sup>10</sup> on the prevention and combating of terrorism as well as the Convention for the Suppression of the Financing of Terrorism, and the appropriate punishments.

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<sup>4</sup> Sec 15 of the EFCC Act provides for offences relating to terrorism.

<sup>5</sup> Sec 1(1) Terrorism (Prevention) (Amendment) Act of 2013.

<sup>6</sup> *Ibid* Sec 1(2).

<sup>7</sup> Sec 4 Terrorism (Prevention) (Amendment) Act.

<sup>8</sup> *Ibid* Sec 13.

<sup>9</sup> *Ibid* Secs 5 & 12.

<sup>10</sup> *Ibid* Sec 40.

The Act has given wide powers to the Office of the National Security Adviser (referred to in the Act as ONSA) as the co-ordinating body for all security and enforcement agencies under the Act.<sup>11</sup> Specifically, the Office of the National Security Adviser has been empowered to:

- (a) provide support to all relevant security, intelligence, law enforcement agencies and military services to prevent and combat acts of terrorism in Nigeria;
- (b) ensure the effective formulation and implementation of a comprehensive counter-terrorism strategy for Nigeria;
- (c) build capacity for the effective discharge of the functions of all relevant security, intelligence, law enforcement and military services under this Act or any other law on terrorism in Nigeria; and
- (d) do such other acts or things that are necessary for the effective performance of the functions of the relevant security and enforcement agencies under this Act.

Another office with wide powers under the Act is the Attorney-General of the Federation. This office has been conferred with powers as ‘the authority for the effective implementation and administration of this Act’.<sup>12</sup> The office of the Attorney-General was further empowered to strengthen and enhance the existing legal framework to ensure -

- (a) conformity of Nigeria’s counter-terrorism laws and policies with international standards and United Nations Conventions on Terrorism;
- (b) maintain international co-operation required for preventing and combating international acts of terrorism; and
- (c) the effective prosecution of terrorism matters.

Also relevant are the law enforcement agencies that have been given the responsibility of ‘gathering of intelligence and investigation of the offences provided under this Act’.<sup>13</sup>

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<sup>11</sup> *Ibid* Sec 1(A)(1).

<sup>12</sup> Sec 1(A)(2) Terrorism (Prevention) (Amendment) Act 2013.

<sup>13</sup> Sec 1(A)(3) Terrorism (Prevention) (Amendment) Act 2013.

The Act sets out specific offences which are described as ‘terrorist acts’ and prescribes penalties for these offences. Some of the offences specifically mentioned in the Act include:

- (i) the murder or kidnapping of internationally-protected persons;<sup>14</sup>
- (ii) arranging, managing, assisting or participating in meetings concerned or connected with an act of terrorism or a terrorist group;<sup>15</sup>
- (iii) soliciting or giving support to terrorist groups or for the commission of terrorist acts;<sup>16</sup>
- (iv) harboring terrorists or preventing the arrest of a terrorist;<sup>17</sup>
- (v) providing training and instructions to terrorists or terrorist groups;<sup>18</sup>
- (vi) the provision of devices to terrorists;<sup>19</sup>
- (vii) the provision of facilities in support of terrorist acts;<sup>20</sup>
- (viii) the provision of finance for terrorists;<sup>21</sup>

Most of the offences enumerated above attract penalties ranging from ten years’ to life imprisonment. It is instructive to note that, while the Act specifically mentions kidnapping as an act of terrorism, it did not envisage a situation whereby terrorists would kidnap people not for ransom, but strictly for sexual exploitation, slavery and abuse. As a result of this lack of foresight, the Act did not make provision for acts of rape committed by terrorists against women. The implication of this *lacuna* becomes obvious and glaring when one considers the fact that under Nigerian laws, an act does not constitute a crime unless a law creates the offence and prescribes penalties or punishments for its breach. Although the offence of rape has been provided for under Nigerian criminal laws, these laws may not be adequate for the purposes of prosecuting those who have resorted to the use of rape as a tactic of terrorism.

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<sup>14</sup> Sec 3.

<sup>15</sup> Sec 4.

<sup>16</sup> Sec 5.

<sup>17</sup> Sec 6.

<sup>18</sup> Sec 7.

<sup>19</sup> Sec 9.

<sup>20</sup> Sec 12.

<sup>21</sup> Sec 13.

### **3.1.3 Trafficking in Persons (Prohibition), Enforcement and Administration Act, 2015<sup>22</sup>**

This Act is a Nigerian law aimed at preventing and combating human trafficking. It repeals the earlier 2003 Act and its amendments, providing a comprehensive framework for addressing the issue. The Act establishes the National Agency for the Prohibition of Trafficking in Persons (NAPTIP) and outlines its functions and powers. It also defines various offenses related to trafficking and prescribes penalties for them.

The Act criminalizes sexual exploitation, procurement, slave dealing, and trafficking, especially involving minors. These offences appear in Part IV<sup>23</sup> and the general prohibition of trafficking under section 13. The Act's definitions (interpretation section) clarify who is a "victim" and define "child" as under 18, which is critical when sex trafficking involves minors. These provisions make commercial sex exploitation, debt bondage and related coercive practices prosecutable as trafficking or slave-dealing offences.

The Act attacks sexual slavery on multiple fronts: it criminalizes the acts,<sup>24</sup> provides harsher penalties where children are involved, creates a specialized enforcement body<sup>25</sup> with investigative and prosecutorial support powers, mandates victim-centric measures,<sup>26</sup> supplies witness protection and confidentiality,<sup>27</sup> and allows asset seizure and forfeiture to hit traffickers' finances.<sup>28</sup> The mutual legal assistance and extraterritorial provisions permit cross-border action.<sup>29</sup> These combined elements, substantive offence architecture, institutional machinery, victim protections, and financial remedies are the statute's legal strategy against sexual slavery.

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<sup>22</sup> Trafficking in Persons (Prohibition), Enforcement and Administration Act, 2015 is Act No. 4 of 2015.

<sup>23</sup> *Ibid* notably sections 14-25.

<sup>24</sup> *Ibid* (n23) sections 13, 14-25, 24-25.

<sup>25</sup> *Ibid* sections 2-12.

<sup>26</sup> sections 61-66, 64, 67.

<sup>27</sup> sections 46-47.

<sup>28</sup> sections 49-56.

<sup>29</sup> sections 36 and 69-74.

### **3.1.4 Criminal Code Act / Penal Code**

The rape provisions in the Penal Code (applicable to north Nigeria) or Criminal Code (applicable to south Nigeria)<sup>30</sup> could present avenues for prosecuting members of Boko Haram for sexual terrorism. Admittedly, the domestic provisions (and subsequent practices of the courts) are defined more narrowly than under international law. Furthermore, a de facto practice of corroboration exists, making it more difficult for victims to support their claim.<sup>31</sup> Despite the existence of these criminal provisions, the reality is that Boko Haram terrorists have not faced criminal proceedings based on domestic criminal codes prohibiting rape.

### **3.1.5 Violence Against Persons (Prohibition) Act (VAPP Act)<sup>32</sup>**

The Violence Against Persons (Prohibition) Act, 2015 (“VAPP Act”) is a federal statute that criminalizes a wide range of sexual and gender-based offences, including rape, sexual assault, forced marriage, forced pregnancy, and other acts that constitute sexual slavery. Section 1 defines rape broadly and removes earlier legal gaps, with penalties ranging from lengthy custodial terms to life imprisonment, and mandates a Sexual Offenders Register for convicted persons. The Act also provides for protection orders, compensation, and immediate enforcement mechanisms, which are critical for safeguarding survivors of insurgency-related sexual violence.<sup>33</sup> Its provisions extend to harmful traditional practices and other coercive acts often used by insurgents, enabling domestic prosecution of conflict-related sexual offences. Agencies such as the National Agency for the Prohibition of Trafficking in Persons (NAPTIP), the police, and prosecutors are tasked with enforcement, and some states, like Borno, have domesticated the Act to strengthen local responses in insurgency-affected areas.

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<sup>30</sup> See section 357 of the Criminal Code Cap. C. 38, LFN 2004 and section 282 of the Penal Code (northern Nigeria); A. Imosemi and A. Nzeribe, ‘Rape as a tool of terrorism: Exploring the situation in northeastern Nigeria and scrutinizing the legal frameworks’, 2(4) *International Journal of Law* (2016), 10-21.

<sup>31</sup> *Ibid.*

<sup>32</sup> Violence Against Persons (Prohibition) Act, 2015.

<sup>33</sup> OO Ikuteyijo and others, ‘Stakeholders’ engagement with law to address gender-based violence in Southwest Nigeria: a qualitative study using normalisation process theory to explore implementation challenges’ *BMJ Public Health* (2024) 2.

In practice, the VAPP Act offers a modern legal framework for holding insurgents accountable for sexual slavery and related crimes, but its effectiveness depends on several factors.<sup>34</sup> These include full domestication across states, specialized investigative and prosecutorial capacity, strong inter-agency coordination, and functional witness protection systems. Implementation remains inconsistent, with low conviction rates due to evidentiary challenges, inadequate forensic resources, and weak survivor support. While the Act can be used alone or alongside terrorism laws for broader prosecutorial reach, its potential is undermined by political, logistical, and institutional limitations.<sup>35</sup> Strengthening these areas would allow the VAPP Act to serve as a central domestic tool for prosecuting insurgency-related sexual slavery and providing justice to survivors.

These legal frameworks collectively indicate that Nigeria possesses an extensive domestic framework for addressing sexual slavery and insurgency. However, their effectiveness is undermined by weak enforcement, jurisdictional overlap, limited institutional capacity, and evidentiary barriers. While statutes such as the Terrorism Prevention Act and the VAPP Act provide broad prosecutorial powers, the lack of clear linkage between terrorism-related sexual offences and general criminal provisions continues to hinder successful convictions. This gap highlights the urgent need for integrated enforcement strategies and harmonization between security and human rights laws.

## **3.2 International And Regional Legal Obligations**

### **3.2.1 Rome Statute of the International Criminal Court (ICC)**

The Rome Statute establishes the International Criminal Court (ICC) and gives it jurisdiction over genocide, crimes against humanity, war crimes, and since 2010 the crime of aggression. The Statute defines a range of sexual and gender-based crimes explicitly including rape,

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<sup>34</sup> P Anuforo and others, 'Influences of Widowhood Cultural Practices, Values, and Beliefs on the Health and Well-being of Nigerian Women: An Integrative Review' *Journal of Transcultural Nursing* , volume 36 (2025) 184.

<sup>35</sup> *Ibid.*

sexual slavery, enforced prostitution, forced pregnancy and other forms of sexual violence as crimes against humanity<sup>36</sup> and as war crimes. The textual provisions of the Statute, complemented by the Elements of Crimes, constitute the legal foundation for prosecuting sexual slavery under international law.<sup>37</sup> Sexual slavery is explicitly criminalized,<sup>38</sup> and the ICC has developed policy and prosecutorial practice to treat enslavement and sexual slavery as grave international crimes that can be charged where they form part of a widespread or systematic attack on a civilian population or arise in the context of an armed conflict. The Court's Elements and recent ICC policy work on slavery crimes clarify *mens rea* and contextual elements (e.g., exercise of power akin to ownership; acts of a sexual nature) needed to prove sexual slavery and related crimes. This gives prosecutors clear legal scaffolding to pursue sexual slavery claims against both non-state insurgent actors and state agents.<sup>39</sup>

The Rome Statute is explicitly complementary: the ICC acts only where national jurisdictions are unwilling or unable genuinely to investigate or prosecute.<sup>40</sup> That means the Statute is a backstop, not a substitute, for Nigerian courts. For victims and policy-makers in Nigeria the Statute therefore functions two ways:

- (i) it creates an external accountability option when domestic systems fail, and
- (ii) it creates an incentive for Nigeria to strengthen domestic investigatory, prosecutorial and witness protection capacity so cases are tried nationally rather than at The Hague.<sup>41</sup>

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<sup>36</sup> Article 7(1)(g).

<sup>37</sup> ICC, 'Rome Statute of the International Criminal Court' <<https://www.icc-cpi.int/publications/core-legal-texts/rome-statute-international-criminal-court?>> accessed 12th August 2025.

<sup>38</sup> *Ibid* (n38); article 8.

<sup>39</sup> PCNICC, 'Discussion paper proposed by the Coordinator' <<https://www.legal-tools.org/doc/225a2c/pdf/?>> accessed 12th August 2025.

<sup>40</sup> Article 17.

<sup>41</sup> ICC, 'The principle of complementarity in practice' <<https://www.icc-cpi.int/sites/default/files/NR/rdonlyres/20BB4494-70F9-4698-8E30-907F631453ED/281984/complementarity.pdf?>> accessed 12th August 2025.

However, Nigeria's limited investigative capacity, political hesitation, and inadequate witness protection mechanisms often prevent cases from meeting the threshold of genuine prosecution, thereby keeping the door open for ICC intervention.

### **3.2.2 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**

Nigeria ratified the CEDAW in 1985 which was established to bring into focus and promote women's rights. The Convention affirms that discrimination against women still exist and violates the principles of equality of rights. It covers the protection for civil and legal status of women and addresses the impact of cultural factors on gender relations. However, the CEDAW is inadequate to protect women's rights in Nigeria because it has not been domesticated. By virtue of Section 12 of the Constitution,<sup>42</sup> treaties which have been signed and ratified will not have any effect until a corresponding law is made by the National Assembly. An attempt was made in 2007 to pass a CEDAW Bill in Nigeria but failed after going through the National Assembly. The Bill faced resistance from legislators who perceived its provisions as inconsistent with religious and cultural norms.

This lack of domestication means that victims of conflict-related sexual violence cannot rely directly on CEDAW provisions in Nigerian courts, thereby weakening both the normative and prosecutorial frameworks for gender-based crimes.

### **3.2.3 Maputo Protocol**

The Maputo Protocol, ratified by Nigeria in 2004, is a binding African human rights instrument that obligates states to prevent, punish, and remedy violence against women, including sexual slavery and trafficking in conflict situations. Relevant provisions include Article 4 (right to life, integrity, and security of person), Article 4(2)(d) (protection from sexual slavery and forced prostitution), and Articles 5-6 and 23-24 (protection from harmful

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<sup>42</sup> The Constitution of the Federal Republic of Nigeria 1999 (as amended).

practices and special protection for women in distress).<sup>43</sup> These provisions directly apply to Boko Haram related abductions, forced marriages, and sexual slavery, which remain widespread in Nigeria's insurgency affected regions.

Although Nigeria has ratified the Protocol, it remains unincorporated into national law, and conflicting legal systems, weak institutional capacity, stigma against survivors, and poor prosecution of conflict-related sexual crimes hinder its effectiveness. To meet its obligations, Nigeria must harmonize its criminal laws with the Protocol, integrate gender-sensitive protections into security operations, strengthen prosecution and forensic capacity, ensure survivor-centered reintegration, and cooperate with regional human rights mechanisms to monitor compliance and secure technical support.<sup>44</sup>

Although the Protocol imposes binding obligations, the absence of enforcement mechanisms and Nigeria's weak institutional structures have limited its impact on prosecuting perpetrators of sexual slavery in insurgency contexts.

### **3.3 Institutional Framework on Sexual Slavery in Nigeria**

The institutional framework on sexual slavery in Nigeria comprises the legal, policy, and administrative structures established to prevent, prosecute, and respond to acts of sexual exploitation, particularly those arising within contexts of conflict, trafficking, and gender-based violence. This framework operates across multiple levels of governance, involving statutory provisions, law enforcement agencies, judicial mechanisms, and specialized bodies mandated to protect human rights and uphold criminal justice standards. It also reflects Nigeria's obligations under regional and international instruments aimed at eliminating sexual slavery and related abuses. However, the effectiveness of these institutions is often

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<sup>43</sup> AU, 'Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' <<https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa?>> accessed 12th August 2025.

<sup>44</sup> Amnesty International, 'Nigeria: Girls failed by authorities after escaping Boko Haram captivity' <[https://www.amnesty.org/en/latest/news/2024/06/nigeria-girls-failed-by-authorities-after-escaping-boko-haram-captivity-new-report/?utm\\_source=chatgpt.com](https://www.amnesty.org/en/latest/news/2024/06/nigeria-girls-failed-by-authorities-after-escaping-boko-haram-captivity-new-report/?utm_source=chatgpt.com)> accessed 12th August 2025.

constrained by weak enforcement capacity, socio-political complexities, and limited coordination among relevant actors. This section examines the key institutions, their roles, and the extent to which they contribute to addressing sexual slavery in Nigeria.

### **3.3.1 Nigerian Police Force**

Nigerian Police Force (NPF): The Nigeria Police Act 2020<sup>45</sup> as amended established the NPF as Nigeria's primary law enforcement agency, and among other objectives to effectively prevent crimes without threatening the liberty and privacy of persons in Nigeria.<sup>46</sup>The Nigerian Police Force (NPF) plays a crucial role in addressing the hurdles of prosecution in cases of sexual slavery and insurgency in Nigeria. Through specialized units such as the Gender Desk and the Criminal Investigation Department (CID), the NPF conducts investigations, rescues victims, and collaborates with the National Agency for the Prohibition of Trafficking in Persons (NAPTIP) to prosecute perpetrators under laws like the Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015. The Police also enforce the Violence Against Persons (Prohibition) Act, 2015, which criminalizes sexual violence and exploitation, and they work with prosecutors to ensure proper case preparation. Additionally, the NPF engages in intelligence gathering and counter-insurgency operations to track and arrest insurgents involved in sexual slavery, while providing forensic and testimonial support during prosecutions. The Force also promotes community policing and public awareness campaigns to encourage reporting of sexual crimes and reduce victim stigmatization. Efforts have been made to build police capacity through human rights and gender sensitive training supported by international partners. Despite these contributions, challenges such as inadequate funding, corruption, cultural bias, and weak inter-agency coordination continue to impede progress. Nevertheless, ongoing reforms under the Police Act, 2020, and collaboration with local and international agencies aim to enhance the

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<sup>45</sup> Nigeria Police Act, 2020 as enacted which repealed the Police Act Cap P19 LFN 2004.

<sup>46</sup> Nigeria Police Act, 2020 Sec. 2(d).

effectiveness of the Nigerian Police Force in combating the hurdles of prosecution in sexual slavery and insurgency cases.

However, despite the statutory empowerment of the NPF under the Police Act 2020, systemic corruption, weak gender sensitivity, and poor inter-agency communication continue to limit effective investigation and prosecution of insurgency-related sexual slavery.

### **3.3.2 National Agency for the Prohibition of Trafficking in Persons (NAPTIP)**

NAPTIP as established by the Trafficking in Persons (Prohibition) Act, 2015<sup>47</sup> focuses on combating human trafficking. NAPTIP functions as both an investigative and prosecutorial body, ensuring that cases of sexual slavery and human trafficking often linked to insurgent activities are properly investigated and effectively prosecuted. The agency conducts specialized investigations, gathers evidence, and works closely with the Nigerian Police Force, Department of State Services, and international organizations like INTERPOL and UNODC to ensure coordinated action against perpetrators. It also provides shelter, counseling, medical care, and legal assistance to rescued victims through its rehabilitation centers, thereby ensuring their safety and willingness to testify in court. NAPTIP further enforces the TIPPEA Act and related laws, using forensic evidence and expert testimony to strengthen cases and improve conviction rates. Through public awareness campaigns and community sensitization, the agency promotes reporting of sexual exploitation and trafficking, particularly in insurgency-affected areas. Additionally, NAPTIP conducts training for law enforcement officers, prosecutors, and judges to enhance their capacity to handle trafficking and sexual slavery cases with professionalism and sensitivity. Despite challenges such as inadequate funding, limited manpower, and insecurity in conflict zones, NAPTIP continues to play a leading role in protecting victims, coordinating inter-agency efforts, and ensuring

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<sup>47</sup> Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015.

effective prosecution of offenders, thereby strengthening Nigeria’s fight against sexual slavery and insurgency-related crimes.

While NAPTIP has achieved modest success in trafficking prosecutions, its operational capacity in conflict zones remains restricted due to insecurity and limited jurisdiction over insurgent crimes, which are often prosecuted under terrorism laws rather than trafficking statutes.

### **3.3.3 Judiciary**

The judiciary, including the Federal High Court and State High Courts, whose roles are explicitly stated and provided for in the Constitution of the Federal Republic of Nigeria, 1999 as amended,<sup>48</sup> plays a vital role in adjudicating terrorism-related cases and ensuring fair trials for suspects.

The Federal High Court, has jurisdiction over terrorism-related offenses pursuant to the Terrorism (Prevention) Act. It plays a pivotal role in ensuring due process, adjudicating cases, and interpreting relevant statutes. However, prosecution of sexual slavery within insurgency contexts remains rare due to evidentiary difficulties, inadequate protection of witnesses, and insufficient judicial specialization in gender-based crimes. Strengthening judicial training on conflict-related sexual violence and ensuring expedited hearings are essential to overcoming these hurdles.

### **3.3.4 Attorney General of the Federation**

The AGF is responsible for strengthening and enhancing the existing legal framework on combating terrorism. Since terrorism, terrorism financing, etc., is a federal crime, prosecutorial powers are vested in the office of the AGF. The AGF also ensures conformity, implementation and adherence to relevant UNSCRs and conventions on terrorism.<sup>49</sup> The centralized prosecutorial authority vested in the AGF ensures policy coherence, yet

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<sup>48</sup> Constitution of the Federal Republic of Nigeria, 1999, Chapter 6.

<sup>49</sup> Part II Sec. 3 Terrorism (Prevention & Prohibition) Act, 2022.

bureaucratic delays and political discretion in case selection often impede timely prosecution of insurgent-related sexual crimes.

### **3.3.5 Nigerian Financial Intelligence Unit (NFIU)<sup>50</sup>**

The NFIU as established by the Nigerian Financial Intelligence Act, 2018 is the central national agency responsible for the receipt of disclosures from reporting organizations, the analysis of these disclosures and the production of intelligence for dissemination to competent authorities. The NFIU is an autonomous unit, domiciled within the Central Bank of Nigeria and the central coordinating body for the country's Anti-Money Laundering, Counter-Terrorist Financing and Counter Proliferation Financing (AML/CFT/CPF) framework.<sup>51</sup>

This agency plays a vital supportive role in combating the hurdles of prosecution in sexual slavery and insurgency cases in Nigeria by targeting the financial structures that sustain these crimes. As the country's central financial intelligence body, the NFIU gathers, analyzes, and shares financial information on suspicious transactions related to human trafficking, sexual exploitation, and terrorism financing. It identifies and traces money trails that link traffickers, insurgents, and their collaborators, providing critical evidence to agencies such as NAPTIP, EFCC, and the DSS to strengthen prosecutions. Through collaboration with international bodies like the Egmont Group, INTERPOL, and UNODC, the NFIU facilitates cross-border intelligence sharing and asset recovery, ensuring that offenders cannot hide or launder proceeds of crime abroad. The agency also aids prosecutors by offering financial profiles of suspects, freezing illicit accounts, and helping to recover assets under relevant laws, thereby weakening the financial capacity of traffickers and insurgent groups. In addition, the NFIU conducts training for investigators and prosecutors to enhance their ability to use financial evidence effectively in court. By disrupting the financial networks sustaining terrorism and

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<sup>50</sup> Nigerian Financial Intelligence Unit Act, 2018.

<sup>51</sup> Nigerian Financial Intelligence Unit Website <<https://www.nfiu.gov.ng/Home/About>> accessed 12th August 2025.

trafficking, the NFIU provides indispensable evidentiary and strategic support that indirectly strengthens the prosecutorial framework against sexual slavery.

### **3.3.6 Nigerian Armed Forces**

The Nigerian Armed Forces, established under the Armed Forces Act, 2004,<sup>52</sup> conduct counter-insurgency operations in affected regions and play a crucial role in rescuing victims, securing evidence, and facilitating arrests of insurgents. However, the absence of clear protocols for preserving forensic evidence and protecting survivors during military operations often undermines subsequent prosecutions.

### **3.3.7 National Security Adviser (NSA)**

The Office of the National Security Adviser is saddled with the responsibility of ensuring the effective formulation and implementation of a concerted and comprehensive counter-terrorism strategy in Nigeria and the provision of support and coordination to all relevant security, intelligence, law enforcement and military services across various government organs and agencies.<sup>53</sup>

Although the NSA provides strategic oversight and coordination, weak integration between military and civilian justice systems continues to hinder effective prosecution.

### **3.3.8 National Counter Terrorism Centre (NCTC)**

The NCTC, as established by the Terrorism Act, 2022 supports the ONSA in the performance of its functions and shall be the coordinating body for counter-terrorism and terrorism financing in Nigeria, charged with counter-terrorism policies, strategies, plans, and support in the performance of the functions of the National Security Adviser as specified in section 4 of the Terrorism Act. It must establish a Joint Terrorism and Analysis Branch as a fusion centre responsible for terrorism research, analysis and intelligence support to law enforcement and

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<sup>52</sup> Nigerian Armed Forces Act Cap A20 2004.

<sup>53</sup> Part II Sec. 4 Terrorism (Prevention & Prohibition) Act, 2022.

security agencies.<sup>54</sup>The National Counter Terrorism Centre (NCTC) plays a vital role in addressing the hurdles of prosecution in cases involving sexual slavery and insurgency in Nigeria through its coordination, intelligence, and policy functions. It enhances the effectiveness of prosecution by gathering, analyzing, and sharing critical intelligence among security and law enforcement agencies, thereby improving evidence collection and case preparation against insurgents and perpetrators of sexual slavery. The NCTC also facilitates inter-agency collaboration, ensuring that the efforts of the military, police, Department of State Services (DSS), and the judiciary are harmonized to avoid duplication or loss of information that could weaken cases in court. Through policy formulation and capacity-building programs, it trains prosecutors, investigators, and law enforcement officers on terrorism-related crimes, including gender-based violence and human trafficking linked to insurgency. The Centre also supports victim identification, protection, and rehabilitation, ensuring survivors can testify safely and effectively, which strengthens prosecution outcomes. Furthermore, the NCTC aligns domestic legal frameworks with international counter-terrorism and human rights standards, providing a structured basis for prosecuting terrorism and sexual slavery offences under Nigerian and international law.

### **3.4 Conclusion**

In summary, Nigeria's legal and institutional frameworks against sexual slavery and insurgency are elaborate on paper but fragmented in practice. While multiple statutes; the Terrorism Prevention Act, Trafficking in Persons (Prohibition), Enforcement and Administration Act, and Violence Against Persons (Prohibition) Act, provide the legal foundation, weak enforcement, poor inter-agency coordination, and limited survivor-centered mechanisms impede effective prosecution. The institutional actors: the Police, NAPTIP, Judiciary, AGF, NFIU, Armed Forces, NSA, and NCTC, operate in overlapping jurisdictions

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<sup>54</sup> Part II Sec. 6 Terrorism (Prevention & Prohibition) Act, 2022.

with insufficient information sharing and resource constraints. To strengthen accountability, Nigeria must harmonize counter-terrorism and gender-violence laws, build prosecutorial capacity for conflict-related sexual crimes, enhance coordination among agencies, and integrate survivor protection into all stages of justice delivery.

## CHAPTER FOUR

### Case Studies And Analysis Of Prosecution Hurdles

#### 4.1 Case Studies of Sexual Slavery in Insurgency Contexts

Boko Haram carried out a series of kidnappings, in which one of the main features was the instrumental use of violence and intimidation as well as forced marriage and compulsory conversion to Islam. These are tactical ways Boko Haram plays on the psychology of women. Between February 2013 and May 2013, the kidnapping strategy was brought into force with the abductions of more than a dozen government officials and their families in Boko Haram's main base of Borno State. In May 2013, Boko Haram carried out a mass assault on a police barracks in Bama, Borno State in which militants captured 12 Christian women and children.<sup>1</sup> This was a prolonged attack, and the abductions followed a fierce battle with security forces in which more than 100 people were killed. On May 7, 2013, Shekau claimed the kidnappings of these 12 women and children in Boko Haram's name. In another video message, he then promised to make these hostages his 'servants' if certain conditions, such as the release of Boko Haram members and their wives from prison, were not met.<sup>2</sup> The availability of women for sexual purposes became a means of satisfying insurgents and cultivating loyalty. A Civilian Joint Task Force commander, who participated in a raid that liberated women and girls, linked the abduction of women to the Nigerian government's counter terrorism deployment of security forces to urban centers; he asserted that when Maiduguri (Borno's capital) became "too hot" for the insurgents, they abandoned their urban wives and began "picking up women anywhere and using them to satisfy themselves".<sup>3</sup> The rise of the Islamist militant group Boko Haram has forced more than 2.6 million people to

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<sup>1</sup> Zenn Jacob and others, 'Women, Gender and the Evolving Tactics of Boko Haram' *Journal of Terrorism Research*, Vol 5, (2014) 47.

<sup>2</sup> *Ibid.*

<sup>3</sup> Bloom and others, 'Women as Symbols and Swords in Boko Haram's Terror' *Women, Peace and Inclusive Security PRISM* (2016) <<https://www.inclusivesecurity.org/wp-content/uploads/2016/03/Prism-Vol-6-No-1-Final.pdf>> accessed 1<sup>st</sup> September 2025.

flee from their homes across Nigeria, Cameroon and Chad, more than half of them children. Many survivors have endured horrific violence, including sexual assault.

#### **4.1.1 Chibok Girls (2014)**

On the night of April 14-15, 2014 up to three hundred girls from different schools in Northeastern Nigeria gathered for their final examinations in the town of Chibok. Instead of taking their tests, they were kidnapped.<sup>4</sup> Many schools in the northeast region had shut down. Boko Haram was targeting them because of their opposition to Western education, which the militants believe corrupts the values of Muslims. But Chibok had not been attacked before, so it was felt safe to use the school for the important final year exams. Many of the pupils were Christians. The gunmen arrived in the town late at night in a blaze of gunfire and headed for the school where they raided the dormitories and loaded the girls on to lorries. For many around the globe, the mass abduction provided a stunning introduction to Bok Haram and increased pressure on the government to fight the militant group which has raged through parts of northern Nigeria for years, burning entire villages and carrying out rape, beheadings, looting and other acts of violence. This grew into a global campaign which spread to the streets of Nigeria with demonstrations led by women's organizations. Nigerian government officials and the then First Lady, Patience Jonathan, accused protesters of trying to discredit the government.<sup>5</sup> She went further to request the detention of two of their leaders. Indeed, prior to Yousafzai Malala's visit also, being at the forefront of government intervention to bring back the kidnapped Nigerian girls the government of Nigeria had been avoiding taking public action against Boko Haram. Following the President's confirmation of the abduction, the Nigerian government and security services began providing details on the girls. But there was one problem about the actual number of school girls abducted which kept changing. It

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<sup>4</sup> Campbell Horace, 'The menace of Boko Haram and fundamentalism in Nigeria' (2014) <<https://www.pambazuka.org/governance/menace-boko-haram-andfundamentalism-nigeria>> accessed 1<sup>st</sup> September 2025.

<sup>5</sup> NN Bemba, 'Silence on the Lambs: The Abducted Chibok Schoolgirls in Nigeria and the Challenge to UNSCR' *Kofi Annan International Peacekeeping Training Centre Policy Brief* (2014).

ranged from 100 to almost 300, with similar confusion regarding the escapees. In May 2014, a police commissioner explained the confusion as due to the convening of girls from different schools.<sup>6</sup> Curiously, after the kidnapping, the Nigerian state continued to treat the question of Boko Haram as a low level insurgency. It was full three weeks before the President of Nigeria made a substantial statement on the kidnappings in Chibok after women of Nigeria protested that the government was not doing enough.

Three weeks after the abduction, on May 5, Boko Haram's Abubakar Shekau claimed responsibility for the kidnapping. Some victims managed to escape, and a large number were still held in captivity. The figure most often cited by the media is 276.<sup>7</sup> The kidnapping of the girls at Government Secondary School Chibok, Borno State, brought into international prominence the organization Jama'atu Ahlis Suna Lidda'awati Wal Jihad or Boko Haram. This incident heralded a new trajectory in Boko Haram's tactics and strategies. Before the 2014 incident, the Chibok community was that unknown Local Government Area (LGA) together with 26 others in Borno State. Its prominence in social, political, security and media circles is unfortunately hinged on pain and gloom.<sup>8</sup> It is believed that the gunmen took the girls to the Sambisa forest near the Cameroonian border. Ever since, it has been a litany of tales regarding the fate of the kidnapped girls. It suffices to state that the tales indicate grave violations of international and domestic laws as well as an affront on the rights of the abducted girls. Three videos have been released to date. On 14 August 2016, a Boko Haram tape showed about 50 of the girls and contained a demand for the release of imprisoned militants in exchange for them. The group also said some girls had been killed or injured in

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<sup>6</sup> AlJazeera, 'Number of Missing Nigerian Schoolgirls Rises' (2014) <<http://www.aljazeera.com/news/africa/2014/05/deadly-bombattack-nigerian-capital-20145201452132527440523.html>> accessed 1<sup>st</sup> September 2025.

<sup>7</sup> Campbell John, 'Nigeria's Chibok School Girl Kidnapping Six Months Later' (2014) <<https://www.cfr.org/blog/nigerias-chibok-school-girl-kidnapping-six-monthslater>> accessed 1<sup>st</sup> September 2025.

<sup>8</sup> Africa news, 'Chibok, #BringBackOurGirls & the Power of Social Media Activism' (2016) <<http://www.africanews.com/2017/04/14/chibok-bringbackourgirls-the-powerof-social-media-activism/>> accessed 1<sup>st</sup> September 2025.

government air strikes. In April 2016 a video was broadcast by CNN, which appeared to show some of the kidnapped schoolgirls alive. In May 2014, Boko Haram released a video of around 130 girls gathered together reciting the Koran. Boko Haram leader Abubakar Shekau has said all the girls have converted to Islam and had been "married off". In 2016, three women who claimed they were held in the same camps as some of the Chibok girls told the BBC some of them had become fighters though this testimony has never been verified.<sup>9</sup>

Initial reports on the number of abducted girls varied between 94 and 111, reflecting Nigeria's chronic crisis-management and record-keeping weaknesses during insurgent attacks.<sup>10</sup>

#### **4.1.2 Dapchi Girls (2018)**

On February 19, 2018, at 5:30 pm, 110 schoolgirls aged 11–19 years old were kidnapped by the Boko Haram terrorist group from the Government Girls' Science and Technical College (GGSTC). Dapchi is located in Bulabulin, Bursari Local Government area of Yobe State, in the northeast part of Nigeria.<sup>11</sup> The federal government of Nigeria deployed the Nigerian Air Force and other security agencies to search for the missing schoolgirls and to hopefully enable their return.<sup>12</sup> The governor of Yobe State, Ibrahim Gaidam, blamed Nigerian Army soldiers for having removed a military checkpoint from the town. Dapchi lies approximately 275 km (170 miles) northwest of Chibok, where over 276 schoolgirls were kidnapped by Boko Haram in 2014. Five schoolgirls died on the same day of their kidnapping; Boko Haram

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<sup>9</sup> *Ibid* (n6).

<sup>10</sup> *Ibid* (n8).

<sup>11</sup> Sahara Reporters, 'Abducted Dapchi Girls in Boko Haram town in Yobe, Claims Rep' (2018) <<https://saharareporters.com/2018/03/02/abducted-dapchi-girls-boko-haram-town-yobe-claims-rep>> accessed 1<sup>st</sup> September 2025.

<sup>12</sup> Felix Onuah, 'Nigeria says 110 girls unaccounted for after Boko Haram attack' <<https://www.reuters.com/article/us-nigeria-security/nigeria-says-110-girls-unaccounted-for-after-boko-haram-attack-idUSKCN1G90Q3/>> accessed 1<sup>st</sup> September 2025.

released everyone else in March 2018, save the lone Christian girl, Leah Sharibu, who refused to convert to Islam.<sup>13</sup>

Ibrahim Geidam, the governor of Yobe State, has complained about the withdrawal of army troops from Dapchi allegedly just hours before the abduction, without informing either the local police or the state government in advance. Initially, the army remained silent regarding this complaint.<sup>14</sup> Days later the army made seemingly contradictory claims attempting to explain its withdrawal. The army claimed that it had withdrawn its forces from the town due to the absence of evidence of any Boko Haram activity in the general vicinity and that at the time, it had formally handed over Dapchi's security to the police before its withdrawal.<sup>15</sup> In an army intelligence document obtained by the Sahara-Reporters group dated February 6, 2018, an army general expressed concern regarding a possible imminent Boko Haram attack in adjacent Damaturu, 60 miles away, thus calling into question the army's earlier assertion that it had good reason to believe that Boko Haram had left the general vicinity. The Yobe state police commissioner strongly denied the army's claim that his department had been formally informed by the army of the army's withdrawal, and no proof of any such police notification was provided by the army.<sup>16</sup>

The Dapchi abduction exposed institutional lapses in Nigeria's security and intelligence coordination. The conflicting accounts between the Nigerian Army and the Yobe State Police illustrate the absence of a unified counter-terrorism communication structure. Despite evidence of gross negligence, no formal inquiry or prosecution was initiated against security

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<sup>13</sup> The Guardian, 'Boko Haram kept one Dapchi girl who refused to deny her Christianity' <<https://www.theguardian.com/world/2018/mar/24/boko-haram-kept-one-dapchi-nigeria-girl-who-refused-to-deny-her-christianity>> accessed 1<sup>st</sup> September 2025.

<sup>14</sup> Sahara Reporters, 'Dapchi Girls: Exclusive Document Shows Nigerian Military Knew Of Boko Haram's Plan To Carry Out Mass Abductions In Yobe, But Withdrew Troops' <<https://saharareporters.com/2018/02/27/dapchigirls-exclusive-document-shows-nigerian-military-knew-boko-harams-plan-carry-out>> accessed 1<sup>st</sup> September 2025.

<sup>15</sup> 'Dapchi: Let the Blame Game Stop' <<https://www.thisdaylive.com/2018/03/04/dapchi-let-the-blame-game-stop/>> accessed 1<sup>st</sup> September 2025.

<sup>16</sup> *Ibid.*

officials whose actions enabled the abduction, reflecting systemic impunity in Nigeria's counter-insurgency operations.

Initially the Yobe governor stated that 94 schoolgirls were kidnapped from the school and that 48 had returned to their parents and that only 46 are still missing.<sup>17</sup> While, Bashir Manzo, the chairman of the Forum of Missing Dapchi Schoolgirls Parents said that 105 girls were missing.<sup>18</sup> The police commissioner of Yobe, Abdulmaliki Sunmonu said that 111 schoolgirls were missing.<sup>19</sup> On March 21, 2018, the federal government of Nigeria announced that Boko Haram terrorists had returned 106 of the kidnapped children, including 104 girls who went to school, one girl who did not and a boy. Leah Sharibu wasn't released, and her parents told Agence France-Presse that the group would only release her if she converted to Islam.<sup>20</sup> The group dropped them off in the town in nine vehicles. Information minister Lai Mohammed stated that the release was unconditional. But days later, the United Nation stated in its report that the government had paid a huge ransom for the release.<sup>21</sup>

The Dapchi case reinforces the persistence of sexual slavery as a weapon of insurgency in Nigeria and the state's inadequate prosecutorial response. Although most victims were released, the continued detention of Leah Sharibu symbolizes both the gendered and religious dimensions of terrorism in Nigeria. The absence of criminal prosecution for the perpetrators underscores enduring legal and institutional failures. As in the Chibok case, this event demonstrates that Nigeria's counter-terrorism measures remain reactionary rather than preventive, with little emphasis on justice for victims of gender-based violence.

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<sup>17</sup> The Vanguard, '111 Yobe schoolgirls not accounted for – Yobe police boss' <<https://www.vanguardngr.com/2018/02/111-yobe-schoolgirls-not-accounted-yobe-police-boss/>> accessed 1<sup>st</sup> September 2025.

<sup>18</sup> Abdulkareem Haruna, 'Dapchi parents release names of 105 schoolgirls abducted by Boko Haram' <<https://www.premiumtimesng.com/news/headlines/259806-dapchi-parents-release-names-105-schoolgirls-abducted-boko-haramfull-list.html?tztc=1>> accessed 1<sup>st</sup> September 2025.

<sup>19</sup> Vanguard, 'There's still conflicting report on number of abducted Dapchi girls, their identity – FG' <<https://www.vanguardngr.com/2018/02/theres-still-conflicting-report-number-abducted-dapchi-girls-identity-fg/>> accessed 1<sup>st</sup> September 2025.

<sup>20</sup> BBC, 'Dapchi girls: Freed Nigerian girls tell of kidnap ordeal' <<https://www.bbc.com/news/43489217>> accessed 1<sup>st</sup> September 2025.

<sup>21</sup> Tonye Bakare, 'Nigeria paid large ransom to free Dapchi girls, UN says' <<https://guardian.ng/news/nigeria-paid-large-ransom-to-free-dapchi-girls-un-says/>> accessed 3<sup>rd</sup> September 2025.

## **4.2 Duties of Government and Non-Governmental Organizations for Victims of Sexual Slavery and Insurgency**

The duties of government and non-governmental organizations (NGOs) towards victims of sexual slavery and insurgency are critical in ensuring the safety, recovery, and reintegration of survivors. Both entities play essential roles in addressing the multifaceted challenges faced by these victims, making their collaboration vital in the fight against human trafficking.

The duty of government institutions in addressing the needs of victims of sexual slavery and insurgency in Nigeria centres on protection, rehabilitation, justice, and reintegration. Agencies such as the National Agency for the Prohibition of Trafficking in Persons (NAPTIP) and the Federal Ministry of Women Affairs are mandated to provide legal and psycho-social support, facilitate rescue operations, coordinate rehabilitation services, and implement policies that safeguard the rights and welfare of victims. NAPTIP is primarily responsible for investigating cases of sexual exploitation, prosecuting offenders, and operating shelters that offer counselling, medical care, and skills-acquisition programmes for survivors. The Federal Ministry of Women Affairs plays a complementary role by developing and implementing gender-responsive policies, coordinating intervention programmes, supporting women-focused empowerment initiatives, and ensuring that victims of conflict-related sexual violence receive access to recovery services, legal protection, and social reintegration assistance. These government bodies are also responsible for strengthening institutional frameworks, enhancing multi-agency collaboration, and aligning national responses with international human rights standards.

Non-governmental organizations play a vital role in supporting government efforts by filling service gaps, advocating for policy reform, and providing direct assistance to survivors. Bodies such as the International Federation of Women Lawyers (FIDA) contribute significantly through legal aid, courtroom representation, rights-awareness programmes, and

community sensitization aimed at promoting justice and preventing further victimization. NGOs often provide trauma-informed counselling, shelter, livelihood support, and long-term reintegration services, particularly in communities affected by insurgency where government presence is limited. They also document human rights violations, engage in research and policy advocacy, and partner with international actors to secure funding and technical assistance. Through these functions, NGOs complement state institutions, amplify survivor voices, and strengthen accountability mechanisms to ensure that victims of sexual slavery receive holistic support and that perpetrators are held to account.

However, the effectiveness of these efforts can be hampered by inadequate resources and challenges in service delivery. NGOs play a complementary role by addressing the immediate and long-term needs of victims, particularly in areas where government support is lacking. They often focus on empowering survivors, respecting their autonomy, and providing personalized recovery services. Collaborative efforts among NGOs, and between NGOs and government entities, are crucial for creating comprehensive support networks that encompass advocacy, education, and case management for trafficking victims.<sup>22</sup> Despite their significant contributions, NGOs face challenges such as limited resources, particularly for male victims and those in rural areas, as well as the complexities arising from their collaboration with government agencies. The experiences of victims of sexual slavery and insurgency are often compounded by stigma, trauma, and systemic barriers, complicating their path to recovery. Addressing these challenges requires a sustained commitment from both governmental and non-governmental entities to enhance service delivery, implement trauma-informed care, and foster public awareness about the needs and rights of trafficking survivors. The interplay of these responsibilities highlights the urgent need for effective policies and practices that prioritize the well-being of victims and facilitate their successful reintegration into society.

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<sup>22</sup> 'Human Trafficking and the Role of Local Governments' <<https://unitar.org/sites/default/files/media/publication/doc/SDP-publication3.pdf>> accessed 3<sup>rd</sup> September 2025.

The strength of prosecution in sexual slavery cases depends largely on the efficiency of victim support systems. Where victims lack adequate rehabilitation and protection, their willingness to testify diminishes, thereby weakening the prosecutorial process.

### **4.3 Barriers to Successful Prosecution**

The creation of the International Criminal Court (ICC) has greatly increased the ability and the chances of the international community to prosecute the crime of sexual violence. The attention that the crime of sexual violence has received with the adoption of Resolution 1325 in year 2000 from the United Nations Security Council has increased.<sup>23</sup> With the increased attention, it is sad to note that only few perpetrators have been tried by the international tribunals for sexual violence either as a war crime, crime against humanity or genocide and fewer were found guilty and convicted. This trend is informed by the fact that collection of evidence has been challenging for the international tribunals due to cultural and political dispositions and ideologies, distance and effluxion of time. Again, international tribunals target those they believe to bear the greatest degree of responsibility for these crimes and little attention is paid to those who may also have participated at the middle or low levels.<sup>24</sup> National courts or legal systems play a very crucial role in ensuring accountability for most of the sexual offences committed in times of armed conflict. Where a State has domesticated the Rome Statute of the ICC, the national courts would not only have their normal jurisdiction to hear and determine general cases of sexual and gender based violence which do not occur in times of armed conflict but can also hear and determine cases of sexual violence that took place in times of conflict which may either be a war crime, crime against humanity or genocide. It is important to observe that addressing accountability issue where it

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<sup>23</sup> KT Seelinger, 'Domestic Accountability for Sexual Violence: The Potential of Specialised Units in Kenya, Liberia, Sierra Leone and Uganda' *International Review of the Red Cross* (2014) 539-564. <<https://www.cambridge.org/core/journals/international-review-of-the-red-cross/article/abs/domestic-accountability-for-sexual-violence-the-potential-of-specialized-units-in-kenya-liberia-sierra-leone-and-uganda/FE004C9187B952293DE9CA61C127FF7A>> accessed 3<sup>rd</sup> September 2025.

<sup>24</sup> *Ibid* (n24).

is impossible for the international tribunals to do so would require that the capacity of the national courts to respond to cases of sexual violence in armed conflict be determined to enable it take its position as a court of first instance as the right to investigate crimes committed in times of armed conflict rests with the national courts in pursuance of the complementarity rule as provided in Article 17 Rome Statute of the ICC. The ICC is a complementary Court; national courts remain the basic fora for the prosecution of sexual violence for the reasons below. First, by the complementarity principle enunciated under the Rome Statute, a State Party to the Rome Statute remain responsible for investigating and prosecuting serious international crimes committed on its territory or by its nationals.

ICC will only interfere where the States are unwilling and genuinely unable to do so as stipulated in the 10th Preamble paragraph, Article 1 and 17(1) Rome Statute. Second, effective investigation and prosecution is still very essential even in the face of ICC's intervention. Third, many crimes of sexual violence in domestic law such as rape, domestic violence, sexual harassment, trafficking, gang rape and incest do not come under the jurisdiction of the ICC. The jurisdiction of the ICC covers war crimes, crimes against humanity, genocide and crimes of aggression as contained in Articles 5-8 of the Rome Statute For Nigeria to exercise jurisdiction over these international crimes the following must be resolved. These challenges are legal as well as and non-legal but they are all inter related and interdependent.

#### i. Non-Domestication of International Treaties on Sexual Violence

The non-domestication of international treaties on the subject under discussion will make it practically impossible for Nigeria to prosecute the crimes of sexual violence in times of armed conflict. It is important to note that Nigerian Penal Laws (the Criminal Code and the Penal Code) may not be amended or reviewed until the treaties recognizing sexual violence as crimes of international magnitude are domesticated. On the one hand, the Constitution in

section 34 recognizes the rights of citizens not to be treated inhumanely and on the other hand, the same Constitution forbids the implementation or enforcement of any treaty which the government has entered into with any other State(s) except it has gone through the process of domestication by the National Assembly as provided for under section 12 of the Constitution.<sup>25</sup> Consequently, Nigeria has ratified the Additional Protocols to the Geneva Conventions, the Rome Statute, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) but is yet to domesticate any of them and until the Rome Statute and other relevant international treaties are domesticated, Nigerian Courts may not be able to prosecute because the extant penal codes have not been reviewed. This creates a huge gap in the accountability processes as the lack of the necessary laws for prosecution may be the reason for the prevalence of the crime of sexual violence in armed conflicts.

The absence of domesticated international treaties renders Nigerian courts powerless to classify sexual slavery as a war crime or crime against humanity, thereby forcing prosecutors to rely on weak domestic provisions that do not capture the gravity of the offence.

#### ii. Inadequacy of the Criminal and Penal Codes

For Nigeria to prosecute sexual violence in times of armed conflict, the national laws on sexual violence must be reformed. Currently, there is no domestic legislation that criminalizes sexual violence in times of armed conflict. The Nigerian Penal Codes which are the Criminal Code Act<sup>26</sup> and Penal Code (Northern Nigeria) are applicable in the Southern and Northern States respectively. They are peace time legislation. These laws need to be reviewed so they can reflect the new international norms against sexual violence. For instance,

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<sup>25</sup> Constitution of the Federal Republic of Nigeria, 1999(as amended).

<sup>26</sup> Cap. C. 38, LFN 2004.

section 1 of the Violence against Persons Prohibition Act (VAPPA)<sup>27</sup> enacted in 2015 gives a broader definition of the crime of rape and includes males and females but the application of this law is limited to the Federal Capital Territory (FCT) Abuja. The need to reform the laws cannot be overemphasized. This is because sexual violence takes many forms involving so many victims, with perpetrators operating in organizational forms as disparate as State armies, Para-Military groups, non-State actors and even the police in peace time as earlier noted and time of extreme violence. The form, scale and context of sexual violence determine to a large extent how it is conceptualized and prosecuted by national courts. Due to the pervasive nature of sexual violence during armed conflicts, it is usually prosecuted as international crimes since they are crimes against humanity, war crime and genocide. where the sexual violence is of an unprecedented nature while domestic charges of sexual violence are used to prosecute peacetime or threshold forms of sexual violence such as rape, incest or sexual harassment.

It is interesting to note that national courts can prosecute both international and domestic forms of sexual violence if the national Penal Codes have been amended to recognize war crimes, crimes against humanity and genocide. This amendment has not been done in Nigeria.

### iii. The Nature of Criminal Responsibility in Sexual Violence Offences

A direct effect of sexual violence in times of armed conflict is the fact that the perpetrator may not be the one standing trial. In a domestic setting, the physical perpetrator faces charges but with international crimes, the one bearing the responsibility may not have committed the crime, he is standing trial as a commander where he failed to do the needful by preventing the men under his control and authority from committing sexual violence and for his failure to punish the perpetrators. Where the defendant is not the perpetrator, the Prosecutor must link him to those acts through other forms of legal responsibility such as aiding and abetting, joint

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<sup>27</sup> Violence Against Persons (Prohibition) Act, 2015.

criminal enterprise or command/superior responsibility.<sup>28</sup> These are not required for domestic crimes of sexual violence. Identifying the perpetrators and their commanders in Nigeria has proven to be a difficult task.

Prosecution of sexual violence in times of armed conflict requires different legal requirements and forms of responsibility. International and domestic cases involve different kind of evidence, investigation and prosecution strategies and victims of international sexual violence must be protected.

#### iv. Stockholm Syndrome

Another important constraint in prosecuting sexual violence in Nigeria, which is also closely tied to unwillingness of victims to report the crime, is the “Stockholm syndrome.” This occurs when victims develop an emotional bond with their abductors during the period of their captivity. The syndrome has also been explained to mean a “psychological response wherein a captive begins to identify closely with his or her captors as well as with their agenda and demands”.<sup>29</sup> There are four key characteristics that have been identified with this syndrome among which is the refusal by hostages to cooperate with the Police as well as other government authorities when it comes to holding perpetrators of abuse or kidnapping accountable.<sup>30</sup>

In Nigeria, there are several incidents of abductors taking their victims as “bush wives” with the victims refusing to return home even when freed. There are also reported cases of freed victims returning to their abductors shortly after they regain their freedom. In all of this, the prosecution of the abductors is made more difficult in view of the unwillingness of the

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<sup>28</sup> PV Sellers, ‘Individuals Liability for Collective Sexual Violence’ *Oxford University Press* (2004) 153-194. <<https://academic.oup.com/book/3584/chapter-abstract/144871778?redirectedFrom=fulltext>> accessed 3<sup>rd</sup> September 2025.

<sup>29</sup> L Lambert, ‘Stockholm Syndrome’ (2020) <<https://www.britannica.com/>> accessed 3<sup>rd</sup> September 2025.

<sup>30</sup> S Stines, ‘Why Stockholm Syndrome Happens and How to Help’ (2019) <<https://www.livescience.com/65817-stockholm-syndrome.html>> accessed 3<sup>rd</sup> September 2025.

victims who are now assailed with Stockholm syndrome to come forward to give evidence against their abductors. This is therefore, a setback to prosecution.

#### vi. Stigmatization

Often, victims of sexual violence are stigmatized. Some of these victims are treated as outcasts and blamed for their predicament. Some may respond by inflicting injury on themselves to express their trauma, anger or to block out painful thoughts. The shame, guilt and lack of support affect their self worth.<sup>31</sup> Other psychological consequences of sexual violence have been identified to include, depression, anxiety, post-traumatic stress disorder, shock, memory loss and sexual dysfunction.<sup>32</sup> A further fall out of sexual violence is the fact that a girl who has been raped may find it extremely difficult to find a life partner and married women also risk being divorced by their husbands. Another dimension is the fact that victims of sexual violence who have become pregnant as a result of being raped suffer an even deeper rejection by the community as well as economic deprivation.

#### **4.4 Surmounting the Challenges in Prosecution**

Prosecuting sexual slavery committed in the context of insurgency in Nigeria requires a multi-pronged reform strategy that centers victim protection, closes investigative and evidentiary gaps, and strengthens institutions with statutory authority to investigate and litigate trafficking and conflict-related sexual crimes.

Nigeria's National Agency for the Prohibition of Trafficking in Persons (NAPTIP) already possesses an express statutory mandate to investigate and take action against trafficking offences, including powers to investigate offences under the Trafficking in Persons (Prohibition) Act and related instruments an authority that should be consolidated by ensuring NAPTIP has clear, resourced, and routinely exercised prosecutorial pathways in coordination with the Office of the Attorney-General to avoid delays and jurisdictional confusion.

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<sup>31</sup> TU Akpoghome, 'Analysis of Domestic Legal Framework on Sexual Violence in Nigeria' *Journal of Law and Criminal Justice* (2016) 17-30. <<https://doi.org/10.15640/jlcj.v4n2a3>> accessed 3<sup>rd</sup> September 2025.

<sup>32</sup> *Ibid* (n31) 274-275.

Strengthening NAPTIP means:

- (1) expanding its regional investigative presence in insurgency-affected states,
- (2) funding forensic and victim-support teams (forensic medical examiners, trauma-informed interviewers, and multilingual interpreters), and
- (3) formalizing co-located prosecution desks or seconded federal prosecutors so cases are charged promptly and with specialized knowledge of trafficking and conflict-related SGBV evidentiary issues. International and comparative practice shows that investigations of group-based sexual slavery require hybrid investigative teams capable of linking patterns of abuse to command structures an effort that demands additional training, intelligence-sharing protocols with security services, and safeguards to protect victims from retribution.<sup>33</sup>

Human rights institutions such as the National Human Rights Commission (NHRC) are critical both as independent monitors and as actors who can assist victims to obtain redress, document abuses for prosecutions, and advocate for procedural protections (privacy, non-re-traumatizing testimony, and access to counsel). The NHRC's working materials on SGBV and its complaint-handling mandate position it to partner formally with NAPTIP and the judiciary to monitor trials, identify systemic obstacles to convictions, and ensure victims' rights are enforced throughout criminal processes. On the judicial side, the experience of designated Sexual and Gender-Based Violence (SGBV) judges and specialist sexual offences courts in jurisdictions such as the FCT and certain states demonstrates the benefits of specialization shorter trial times, better-prepared judges, and procedures that reduce secondary trauma for witnesses. Nigeria should scale up these models by establishing (or formally recognizing) specialized SGBV/trafficking court lists or dedicated trafficking courts in insurgency-affected states, embedding victim-support services within court houses, and

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<sup>33</sup> Adejoké Babington-Ashaye, 'The Tide Turns: the Prosecution of SGBV Crimes as a Terrorist Offence in Nigeria' (2024) <<https://icct.nl/publication/tide-turns-prosecution-sgbv-crimes-terrorist-offence-nigeria>> accessed 11<sup>th</sup> November 2025.

introducing mobile or fast-track procedures for survivors who are internally displaced or in IDP camps.

Practically, surmounting prosecutorial hurdles also requires addressing corruption and evidentiary bottlenecks highlighted in recent national reporting: regular independent audits of case attrition, witness protection programs tailored to forced-marriage and kidnap survivors, plea-bargain guidelines that avoid impunity for ringleaders, and partnerships with international prosecutors and NGOs for forensic verification of mass abuse.

Finally, success depends on implementation: sustained budget lines for NAPTIP and NHRC, training curricula for prosecutors and judges on conflict-related sexual crimes, community reintegration programs to reduce stigma that prevents testimony, and legislative tweaks to remove legal inconsistencies between anti-terror, trafficking, and criminal procedure laws so that sexual slavery framed as both trafficking and war crime can be prosecuted efficiently. When these institutional levers are combined empowered and resourced NAPTIP prosecutorial desks, active NHRC monitoring and victim advocacy, and expanded specialist SGBV/trafficking courts with embedded support services Nigeria will markedly improve its capacity to secure just outcomes for survivors of sexual slavery perpetrated in the context of insurgency.

#### **4.5 Conclusion**

This chapter has demonstrated that the prosecution of sexual slavery and insurgency-related crimes in Nigeria is impeded not merely by legal gaps, but by deeper institutional, cultural, and psychological barriers. While government and NGOs play pivotal roles in victim rehabilitation, their efforts are undermined by inadequate laws, stigmatization, and lack of coordination. Overcoming these challenges requires domestication of international treaties, reform of penal laws, and creation of specialized prosecutorial frameworks capable of addressing gender-based crimes in conflict situations.

## CHAPTER FIVE

### SUMMARY, RECOMMENDATIONS AND CONCLUSION

#### 5.1 Summary of Key Findings

Despite its systematic and widespread perpetration, few, if any, insurgents have been held accountable for sexual slavery under either Nigerian or international law. Survivors continue to experience abduction, forced marriage, rape, and long-term social exclusion. On return from captivity, many face stigmatization, rejection, and lack of psycho social or legal support, which undermines their willingness to testify or pursue justice.

The findings demonstrate that Nigeria's legal framework, though containing several relevant statutes such as the Violence Against Persons (Prohibition) Act (2015), the Terrorism (Prevention) Act (2011, as amended), and the Trafficking in Persons (Prohibition), Enforcement and Administration Act (2015), does not comprehensively recognize sexual slavery in armed conflict as a distinct and prosecutable crime. This legislative ambiguity contributes significantly to low prosecution rates.

Institutional weaknesses are another central barrier. Investigative bodies often lack forensic capacity, proper documentation procedures, and specialized training to handle conflict related sexual violence. Inter agency fragmentation further hinders case management, as the military, police, and prosecutorial bodies frequently operate in isolation. Judicial inefficiency characterized by delayed trials, lack of prosecutorial expertise, and weak witness protection mechanisms has further discouraged survivors from participating in legal processes.

The study also finds that Nigeria's international obligations under the Rome Statute of the International Criminal Court, CEDAW, and the Maputo Protocol remain largely unfulfilled due to the absence of full domestication and inconsistent enforcement. The Nigerian state has prioritized military operations over legal accountability, often emphasizing insurgent reintegration programs without parallel prosecution for crimes committed. This approach

entrenches impunity and weakens both national and international confidence in Nigeria's justice system.

## **5.2 Recommendations**

In order to overcome the identified obstacles, a multi-layered strategy is required, integrating legal reforms, institutional strengthening, survivor support mechanisms, and international cooperation.

1. Legal Reform and Domestication of Treaties:<sup>1</sup> The Nigerian legislature should amend existing criminal and counter terrorism laws to explicitly define sexual slavery in armed conflict as a separate and grave offense. The domestication of treaties such as the Rome Statute, CEDAW, and the Maputo Protocol should be prioritized to align domestic laws with international standards and enable effective prosecution within Nigerian courts.

2. Establishment of Specialized Courts and Prosecution Units: Dedicated courts and prosecutorial units for conflict related sexual violence should be established to handle cases more efficiently. Prosecutors and investigators within these units must be trained in international criminal law, trauma sensitive interviewing, and evidence gathering. Such specialization would reduce case backlogs and improve the quality of prosecutions.

3. Victim Centered Justice Mechanisms: The state must prioritize survivors' welfare by providing free legal aid, medical and psychological support, and safe shelters. Effective witness protection schemes should be implemented to guarantee the safety of survivors willing to testify. Government sponsored litigation funding for sexual violence cases would also encourage greater participation from survivors.

4. Strengthening Investigative and Forensic Capacity: Investment in forensic laboratories, digital evidence collection, and crime documentation systems is necessary. Police officers,

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<sup>1</sup> Section 12 of the 1999 Constitution (as amended).

military personnel, and prosecutors should be trained to collect and preserve evidence from conflict zones in compliance with international standards, ensuring cases are trial ready.

5. Enhancing Inter Agency Coordination: Agencies such as the Nigerian Police Force, NAPTIP, the Ministry of Justice, and the Armed Forces must adopt a coordinated approach to case management. Standard operating procedures should be developed for victim referral, evidence sharing, and prosecution support. This will prevent duplication of efforts and ensure that rescued victims are not re-traumatized by institutional mishandling.

6. Combating Stigma and Societal Barriers: Community sensitization campaigns must be implemented to address stigmatization of survivors and challenge harmful cultural practices that discourage reporting. Religious and community leaders should be engaged as partners in reshaping perceptions, ensuring that survivors are treated as victims of crimes rather than as complicit actors.

7. Strengthening International Engagement: Nigeria should strengthen cooperation with international bodies such as the International Criminal Court, the United Nations, and regional human rights institutions. Where domestic systems prove inadequate, referral of cases to international tribunals may provide accountability. International actors can also provide technical support, capacity building, and monitoring to ensure Nigeria fulfills its obligations.

### **5.3 Conclusion**

In conclusion, Nigeria's approach to addressing sexual slavery in insurgency contexts has been inadequate, primarily due to legislative gaps, institutional weaknesses, and lack of political commitment to prosecution. While military interventions have rescued victims, little effort has been directed toward ensuring justice for the crimes committed against them. Survivors remain marginalized, perpetrators enjoy impunity, and Nigeria risks continued violation of its international obligations. Prosecuting sexual slavery is not only a legal

necessity but also a moral and political imperative. It serves to restore the dignity of survivors, reinforce the rule of law, and contribute to long-term peace building. Without legal accountability, reintegration programs and peace initiatives remain incomplete, as they fail to address the core injustices inflicted during the insurgency.

Nigeria must therefore embrace a holistic reform agenda that combines robust legislation, institutional coordination, survivor-centered mechanisms, and international partnerships. Only through such deliberate and sustained measures can the cycle of impunity be broken, survivors be assured of justice, and the Nigerian state rebuild public confidence in its legal and governance systems.

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